

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 542 of 2012

Monday, this the 3rd day of March, 2014

CORAM:

Hon'ble Mr. K. George Joseph, Administrative Member

V. Vidhyadharan, Vidhunamkottuputhan Veedu,
Pathanapuram, Venchumpu PO, Punalur, Kollam,
Pin – 691 333.

Applicant

(By Advocate – Mr. P.M. Benzir)

Versus

1. National Research Centre for Oil Palm,
represented by its Director, West Godavari
District, Pedavegi, Andhra Pradesh, Pin – 534 450.
2. The Scientist-in-Charge, National Research Centre for Oil Palm,
Regional Station, Palode, Pacha, Thiruvananthapuram, Pin – 695 562.
3. Indian Council of Agricultural Research,
represented by Director General, Krishi Bhavan,
Dr. Rajendra Prasad Road, New Delhi,
Pin – 110 001. **Respondents**

(By Advocate – Mr. P. Santhosh Kumar)

This application having been heard on 6.2.2014, the Tribunal on 3.3.2014 delivered the following:

ORDER

Upon the death of the wife of the applicant while working as Supporting Staff Grade-I under the 1st respondent on 19.7.2001 the applicant had submitted on 20.8.2001 an application requesting to provide him suitable employment under the compassionate appointment scheme. On the ground that he had crossed the upper age limit his application for appointment was

rejected. However, pursuant to the direction issued by this Tribunal the 3rd respondent granted approval for age relaxation to consider him for compassionate appointment. The 1st respondent as per Annexure A8 letter has informed the applicant that there is no sufficient number of posts for compassionate appointment right then but his case would be considered when the required number of posts becomes available in the coming years. The applicant's representation at Annexure A9 dated 19.3.2012 for appointment under the compassionate appointment scheme has not so far been responded to. Aggrieved the applicant has filed this Original Application for the following reliefs:-

- “i. to issue appropriate orders or direction directing the respondents to provide the applicant with any suitable employment in the 1st respondent establishment under the compassionate appointment scheme.
- ii. grant such other reliefs as may be prayed for and the court may deem fit to grant, and
- iii. grant the costs of this Original Application.”

2. The applicant mainly contended that though the ICAR has granted approval for age relaxation for compassionate appointment the applicant has not so far been given any appointment although there are 26 retirement vacancies available at National Research Centre for Oil Palm, Regional Station, Palode, Thiruvananthapuram.

3. The respondents in their reply statement submitted that the applicant was qualified except for the age factor. However, the 3rd respondent granted approval of age relaxation to consider his case for appointment on

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compassionate grounds as per the direction given by this Tribunal but there was no vacancy available for the purpose of appointment under the compassionate appointment category. Only when 20 direct recruitment vacancies are available under Group-C & D, one vacancy can be earmarked for compassionate appointment. Accordingly, necessary approval for relaxing the age of the applicant by the competent authority will not render a job to the applicant unless a vacancy exists as per the rule of the scheme. As there is no vacancy under the compassionate appointment category the respondents are unable to consider the application preferred by the applicant.

4. In the rejoinder statement the applicant submitted that it is clear from Annexure A12 that more than 20 vacancies are available under the Group-C and D category at the Regional Station, Palode, Thiruvananthapuram.

5. In the statement filed by the counsel for the respondents it was submitted that in no year there were more than 5 direct recruitment vacancies and hence no post can be earmarked for compassionate appointment.

6. I have heard the learned counsel for the parties and perused the records.

7. The respondents have submitted that the applicant is eligible for appointment under the compassionate appointment scheme. The applicant contends that there are enough vacancies available and that he can be appointed in one of the vacancies. The respondents' stand is that in one

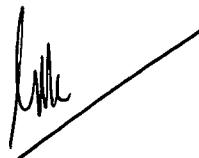
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recruitment year there are only five vacancies and that there are not enough vacancies in any one year to accommodate the applicant. The ban orders on filling up posts issued by the Ministry of Finance, Department of Expenditure dated 16th January, 2013 will not apply to compassionate appointment. Compassionate appointment can be made up to a maximum of 5% vacancies falling under the direct recruitment quota in any Group-C posts. Small Ministries/Departments may apply for a liberalized method of calculation under the said 5% quota by adding of total direct recruitment vacancies in Group-C and erstwhile Group-D posts arising in three or more preceding years with reference to calculation of total number of vacancies in this case for any one vacancy of compassionate appointment. Further there is no time limit for considering application for compassionate appointment. It is also stated that the request for compassionate appointment consequent on death of the erstwhile Group-D may be considered with greater sympathy by applying relaxed standard depending upon the facts and circumstances of the case. The applicant could have been considered against vacancies in places other than in Palode also. In the light of OM No. F.No. 14014/02/2012-Estt.(D), dated 16th January, 2013 of DOP&T the respondents should reconsider the case of the applicant for appointment under the compassionate appointment scheme.

8. Original Application is disposed of with a direction to the respondents to consider the case of the applicant for appointment to a suitable post under the compassionate appointment scheme as per OM No. F.No.

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14014/02/2012-Estt.(D), dated 16th January, 2013 within a period of three months from the date of receipt of a copy of this order. No costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

“SA”