

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.558/97

Wednesday this the 13th day of August, 1997

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

T.R.Radhamani,  
W/o late V.N.Sasidhara Panicker,  
Sharika Vilasam House,  
Thiruvanchoor PO, Kottayam. ... Applicant

(By Advocate Mr. P.C.Sebastian)

Vs.

1. The Union of India represented by  
the Secretary Ministry of Communications,  
Department of Posts, Dak Bhavan, N.Delhi.
2. The Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.
3. The Senior Superintendent of Post  
Offices, Kottayam Division, Kottayam.
4. The Director of Canteens, Department  
of Personnel & Training, Ashoka Road,  
New Delhi-110 001. .... Respondents

(By Advocate Mr. Mathews J Nedumpara,ACGSC(represented)).

The application having been heard on 13.8.1997, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Shri V.N. Sasidhara Panicker commenced service  
as a Washboy in the Canteen at Kottayam Head Post Office  
with effect from 1.3.87. The canteen was reconstituted  
with effect from 5.7.89 on a co-operative basis and  
it was registered under No.K-78 as a Co-operative  
Canteen named Kottayam Postal Employees Cooperative  
Canteen. He was appointed on a regular basis as a  
Washboy in the scale of pay of Rs.750-940 with effect  
from 1.3.87 as per Order No.B3/Canteen dated 19.5.90  
(Annexure.A1). While Shri Panicker was working as a

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regular Washboy he died on 27.12.92 unexpectedly. Pursuant to the decision of the Hon'ble Supreme Court in M.M.R. Khan's case, the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) issued an Office Memorandum No.12/5/91-Dir(C) dated 29.1.92 treating the canteen employees working in the departmental/co-operative canteens located in Central Government Offices as government employees with effect from 1.10.91 directing the department to extend to them all benefits as are available to other government employees of comparable status. As the applicant's husband died in harness and as the family was driven to extreme indigence, on 10.9.96 the applicant made a representation to the third respondent for employment assistance on compassionate grounds. This request was turned down by the impugned order dated 16.12.96 (A6) on the ground that as the erstwhile cooperative canteen at Kottayam was not registered with the Directorate of Canteen, the benefit of Supreme Court judgment could not be extended to Shri V.N.Sasidhara Panicker and hence the applicant was not entitled to any employment assistance on compassionate grounds. Aggrieved by the impugned order, the applicant has filed this application for having the impugned order quashed and for a declaration that the applicant is entitled to be considered for compassionate appointment and to direct the respondents to consider the applicant's case for compassionate appointment for a suitable post having regard to her qualifications within a specific time limit.

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2. The respondents in their reply have stated that after the impugned order was issued, there has been a change in the policy of the Government. The Department of Personnel issued O.M.No.3/4/96-Dir(c) dated 20.3.97 by which it has been decided that all canteens which were opened before 1.10.91 and could not be registered by the cut off date due to various reasons be allowed to continue to function as before and the employees working in the Canteen would also be declared as Government employees with effect from 1.10.91 subject to fulfilment of the following conditions:

(a) That the canteen/tiffin room was set up by the departmental authorities before 1st of October 1991; and

(b) That employees in the canteen/tiffin room were recruited in a proper manner and such recruitment was made on a regular basis.

3. However, the respondents contend that even according to the above O.M. the applicant is not entitled to claim compassionate appointment because her husband Shri Sasidhara Panicker was only a casual labourer and only persons employed on regular basis were entitled to be treated as Government servants.

4. As the pleadings in this case are complete, the matter has been heard for final disposal. The claim of the applicant for compassionate appointment was rejected by the impugned order solely for the reason that the canteen in which the applicant's husband Shri Sasidhara Panicker was employed was not registered with the Directorate of Canteens. Now with the issuance of

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the O.M.No.3/4/96-Dir(C) dated 20.3.97 by the Government of India, Department of Personnel even if the canteen was not registered within the cut off date, if the canteen was established before 1.10.91 the employees in the canteen could be treated as Government employees if their appointments were made on a regular basis. The canteen in which the applicant's husband was working was established long prior to 1.10.91. Therefore, the impugned order cannot stand in view of the O.M. referred to above. However, the respondents have taken a different stand in the reply statement than what is contained in the impugned order. Now the case of the respondents is that the husband of the applicant was only a casual labourer. This contention is not only untenable but frivolous in the face of Annexure.A1 order of the Senior Post Master, Kottayam dated 9.5.90 by which Shri Sasidhara Panicker was appointed as a Wash Boy in the Kottayam Postal Employees Cooperative Canteen No.K.78 on a regular basis in the scale of pay of Rs.750-940 with effect from 1.1.87. The applicant had made specific allegation that her husband was appointed on a regular basis by A-1 order. Without referring to the said allegation as also to the A-1 order a statement has been made in the reply statement that applicant would not be eligible for compassionate appointment as her husband was only a casual labourer. The above contention needs only be mentioned and rejected.

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5. In the light of what is stated above, I am of the considered view that the applicant is entitled to be considered for compassionate appointment. The consideration has to be made by the competent authority.

6. In the result, the application is disposed of with a direction to the respondents to take the case of the applicant for employment assistance on compassionate grounds, consider it on merits and to give the applicant a speaking order within a period of two months from the date of receipt of a copy of this order. If on such consideration the applicant is found entitled and eligible for compassionate appointment, the appointment shall also be made without undue delay. There is no order as to costs.

Dated the 13th day of August, 1997,



A.V. HARIDASAN  
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A-1 : True copy of order No.83/Canteen dated 19-5-90 issued by the Senior Postmaster Kottayam Head Post Office the Ex-officio Chairman of the Canteen.
2. Annexure A-6 : True photo copy of letter No.82/3(a)/EDAs dated 16-12-96 issued by the 3rd respondent.

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