

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No. 560 of 2002

Friday, this the 11th day of March, 2005.

CORAM:

**HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER**

Biju Thomas,
Provisional GDSPM,
Nellickammon Sub Post Office,
Ranni, Residing at Kavumkottu Parambil,
Nellikkammon, Angadi, Ranni,
Pathanamthitta District.

... Applicant.

(By advocate Mr. M.R. Hariraj)

V e r s u s

1. Sub Divisional Inspector of Posts,
Ranni Postal Sub Division, Ranni.
2. Superintendent of Post Offices,
Pathanamthitta Postal Division,
Pathanamthitta.
3. The Chief Post Master General,
Kerala Circle, Trivandrum - 695 001.
4. Union of India represented by its Secretary,
Ministry of Communications, New Delhi.

... Respondents

(By Advocate Mr. T.P.M. Ibrahimkhan, SCGSC)

O R D E R

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant's father was EDSPM working under the first respondent. He died in harness on 19.5.2001. His wife, daughter and the applicant were totally dependent on the deceased. The applicant's mother made a request for



compassionate appointment to the applicant since she being not healthy to earn for her living and having no other means of income. The applicant is fully qualified to be appointed as EDBPM/GDBPM. He passed SSLC Examination with 247 marks and was provisionally appointed as EDSPM soon after the death of his father. While submitting A3 representation to the second respondent the applicant submitted that his father was the sole bread winner of the family and he had to repay the debts owed by father due to prolonged treatment of his sister, who was undergoing treatment for her mental illness for the last six years. She was being supported by the deceased even though she got married. The applicant pleads that he had to take care of his mother, sister, his wife and child. His family is facing financial stringency due to the difficulties mentioned above. The applicant has no other income than the salary out of his provisional employment in the vacancy of his father. Vide order A/4 dated 1.2.2002, the request of the applicant for compassionate appointment was rejected. Aggrieved by the said rejection, the applicant has filed this O.A. Seeking the following main reliefs:-

"(i) To quash Annexure A/1, A/2 and A/4;

(ii) to declare that the applicant is entitled to be considered for compassionate appointment as GDSPM, Nellikkamom under the Department of Posts or in the alternative direct the respondents to consider the applicant for compassionate appointment to any suitable post, and to grant him such appointment without any delay."

2. The respondents have filed a detailed reply statement admitting the fact that his father died in harness and the applicant was placed in charge of the Post Office on temporary and ad hoc basis on the death of his father. The respondents contended that the Circle Relaxation Committee in its meeting held on 14.12.2001 considered the case of the applicant for appointment on compassionate ground. It did not recommend the case of the applicant on the ground that he was not found dependent on the deceased GDS. A/4 order was



issued accordingly stating that his case was not covered under the guidelines governing compassionate appointment. Thereafter, the representation filed by the applicant was rejected vide A/1 order stating that the applicant cannot be termed as a dependent on his father on various reasons mentioned in that order. The respondents submitted that the O.A. Being devoid of any merit is liable to be dismissed.

3. We have heard Mr. M.R.Hariraj, learned counsel for the applicant and Mr. TPM Ibrahim Khan, SCGSC, for the respondents.

4. The applicant is claiming for appointment on compassionate ground on the death of his father. His claim is supported by his mother and sister. The applicant had earlier approached this Tribunal in O.A. No.120/2002 and vide order dated 20.6.2002, this Tribunal directed the respondents to dispose of the representation of the applicant. Now Annexure A/1 order was issued rejecting the claim of the applicant, which is impugned in this O.A along with A/2 and A/4 orders. The claim of the applicant was rejected on the basis of the report of the Circle Relaxation Committee. The main ground for rejecting his claim was that the family of the deceased employee is in possession of 24 cents of land and a house to live. The family is under no liability of marriage of any female child nor education of minor children. The applicant is married and aged 31 years. He is educated and is in good health. So, in the normal case he can be considered to be well equipped to support his mother on his own. In the case of departmental officials, male children above 25 years of age are not eligible for family pension, leave travel concession and medical reimbursement claims etc. So a son above the age of 25 years in circumstances as mentioned above cannot be termed as dependent on his father. In fact, the son aged 31 years should have been independent of his father at least for the last six years. Therefore, it is against the guidelines.

5. We have given due consideration to the arguments, material and evidence



placed on record. It is an admitted fact that the applicant is unemployed. He is married and having a child. Apart from applicant's own family, he has to take care of his ailing mother and sister, who is married and mentally ill. The averment in the O.A is that his sister is undergoing treatment for the last six years. Though his sister got married, she was supported by the deceased due to her mental illness and that responsibility is now placed on the shoulders of the applicant. This peculiar situation has not been taken into consideration while passing the impugned order A/1. The fact also remains that because of the temporary employment given to the applicant in place of his father, they got some relief for their survival. To know the veracity of the assessment made by the Circle Relaxation Committee, we have directed the respondents to produce the records relating to rejection of the claim of the applicant. On perusal of the report on the survived members (i) Mary Thomas – wife (ii) Biju Thomas – son (iii) Daisy B. Thomas – daughter in law and (iv) Jessy Thomas – daughter, we find that nobody is in employment. The case of the applicant is that his sister Jessy Thomas, who is mentally ill, requires continuous treatment and the applicant is facing acute financial stringency to meet this requirement. On the death of his father, the responsibility of his entire family is placed on applicant's shoulder. This fact was not considered while arriving at the impugned decision. In the report dated 29.10.2001, The Superintendent of Post Offices, Pathanamthitta reported that "the deceased GDS was on possession of 24 cents of hilly and undulated land from which there is no considerable yield. He has possessed only a small house constructed by using mud bricks. The daughter of the deceased was ~~get~~ married and her husband divorced her due to her mental decease. It is reported that a large amount was spent for her treatment and this expensive treatment is continuing. Meanwhile, the deceased became a heart patient and he was under treatment at Kottayam Medical College for the last three years. Later on, the daughter married to an unemployed person and they were also under the financial shade of the deceased GDS. Now the family is striving hard to meet both the ends. In view of the above circumstances and financial stringency the wife of the deceased GDS viz. Smt. Mary Thomas has



requested that her son, Mr. Biju Thomas, may be appointed in the department on compassionate ground in relaxation of normal recruitment rules. Shri Biju Thomas, son of late GDS, is allowed to work in the place of the late GDS on temporary basis and he is continuing in the post. Hence it is requested that Shri Biju Thomas, the dependent of the deceased GDS may kindly be considered for appointment in the department in relaxation to the normal recruitment rules."

6. The above report was submitted by the verifying officer after scrutiny of the documents listed therein and also on personal inspection. After considering this report, the Divisional Head has recommended the induction of the applicant in the department. However, the matter was referred to the Circle Relaxation Committee. The Circle Relaxation Committee vide proceedings dated 14.12.2001 has considered 19 cases, out of which 15 cases including the applicant were rejected and the remaining 4 cases were recommended. In the column 'Decision of the Committee', no reason was recorded justifying recommendation of the said 4 cases. The applicant's name was at serial No. 15 and his case was rejected on the ground that he cannot be termed as dependent. It would be interesting to evaluate the assessment of the Circle Relaxation Committee with reference to the dependency of the applicant.

7. On perusal of the Scheme for compassionate appointment, we find that the person who is dependent on the deceased would only be considered for compassionate appointment. But nothing has been prescribed in the Scheme as to who is the dependent. The respondents and the Circle Relaxation Committee have taken the definition of 'family' defined under the Family Pension Rules as well as Leave Travel Concession and Medical Reimbursement Rules for the purpose. The age limit is also considered as same as mentioned in the above Rules. For the purpose of granting family pension and availing medical facilities etc. to the male children, the age limit is 25 years or till the son started earning whichever is earlier. Had the intention of Rule making Authority is to



restrict the age for compassionate appointment as 25 years, it could have definitely been incorporated in the Schme. In the absence of any specific mention in the Scheme, sticking the age limit as 25years cannot be justified. Compassionate appointment is intended to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the sole breadwinner, who died leaving the family in penury and without sufficient means of livelihood. The paramount consideration for granting compassionate appointment is the condition of the family. Admittedly, the applicant has not received any terminal benefits. After the death of the applicant's father, the entire responsibility of the family of the deceased comes on the shoulder of the applicant. As already stated, his sister is undergoing continuous treatment on her mental illness. The applicant has no other source of income. All these facts were highlighted in the report of the Superintendent of Post Offices, Pathanamthitta Division dated 29.10.2001 and recommended the case of the applicant. But while considering his case for compassionate appointment, the relevant material that was available on record, has not been taken into consideration by the Circle Relaxation Committee. The mere fact that the family of the deceased was in possession of 24 cents of land and a house to live cannot disqualify the applicant for compassionate appointment. In the report dated 29.10.2001 of the Superintendent of Post Offices, Pathanamthitta Division, it was clarified that there is no considerable yield from the said land and the house is also made of mud bricks. The respondents have no case that the applicant cannot be accommodated for want of vacancies. It would have been very difficult to pull on if the applicant was not given the temporary employment. In the case reported in ILR 2003 (2) Kerala, Sunil Kumar K.G. vs. Union of India, Hon'ble High Court of Kerala has laid down the dictum that in some cases even after collection of the terminal benefits, the 'family may be under a debt. Thus, the mere fact that a family has received terminal benefits, cannot, by itself be a reason to deny appointment on compassionate ground. In this case, the family did not receive any terminal benefits and the report/evidence is that the family is still under heavy debt. This aspect has been



completely ignored while passing the impugned order.

8. The averment of the respondents regarding the age limit for compassionate appointment as 25 years cannot be accepted since there is no such specification in the Scheme. It is absolutely based on a wrong interpretation of the guidelines and against the material placed on record. As already stated above, compassionate appointment is intended to enable the family of the deceased employee to tide over the sudden crisis resulting due to the death of the breadwinner. Considering the facts and circumstances of the case and the report of the Superintendent of Post Offices, Pathanamthitta dated 29.10.2001 as well as the legal position, we are of the view that the applicant's family is in penury and without sufficient means of livelihood. Therefore, the O.A. deserves to be allowed.

9. In the result, we set aside and quash the impugned orders A/1, A/2 and A/4 with a direction to the respondents to consider the case of the applicant for compassionate appointment in the existing or in the next available vacancy and pass appropriate order within a period of three months from the date of receipt a copy of this order. In the circumstances, no order as to costs.

(Dated, the 11th March, 2005)

H. P. Das

H.P. DAS
ADMINISTRATIVE MEMBER

K.V. SACHIDANANDAN
JUDICIAL MEMBER

cvr.