

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 562 OF 2012**

Friday, this the 28<sup>th</sup> day of June, 2013

**CORAM:**

## HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

M.Lekha  
Thottathil Mekke Madom  
Pada South  
Karunagappally PO  
Kollam - 690 518

... **Applicant**

(By Advocate Mr. Shabu Sreedharan)

### versus

1. Union of India represented by the Secretary / Director General of Posts Ministry of Communications New Delhi - 110 001
2. The Chief Postmaster General Kerala Region Thiruvananthapuram – 695 033
3. Senior Superintendent of Post Offices Kollam Division Kollam – 691 001 ...

### Respondents

(By Advocate Mr. M.K. Aboobacker, ACGSC)

The application having been heard on 27.06.2013, the Tribunal on 28.06.2013 delivered the following:

## ORDER

**HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER**

The applicant is the widow of one Shri V.Ramamoorthy who was serving as Sub Postmaster in Mynagappally SPO and who died at the age of 44 years on 12.12.2009. He was survived by his wife, minor son aged 13 years and minor daughter aged 9 years and his mother aged 74 years. The two children are school going. After the death of the said Shri Ramamoorthy the applicant had to seek some employment and accordingly she joined a private school as a teacher for meeting the educational expenses of her children.

2. Provision exists for grant of compassionate appointment and the guidelines thereof are provided in the Ministry of Communication and IT, Department of Posts letter dated 20.01.2010. According to the same to achieve the objective of the scheme of compassionate appointment and to ensure complete transparency merits of the case were to be decided by allocating points based on various attributes indicated in the references of DOPT from time to time. Accordingly, the Department has worked out a system of allocation of points to various attributes based on the hundred point scheme. The attributes included Family Pension, terminal benefits, monthly income of earning members and income from property, movable and immovable property, number of dependents, number of unmarried daughters, number of minor children, left over service and 15 points to be allotted where the wife of the deceased has applied for compassionate appointment for herself. The applicant had preferred her application giving full details. However, she has not been granted any compassionate appointment and hence this OA seeking the following reliefs:-

- (i) *To pass an order quashing the Annexures A-3, A-7 & A-9 letters with No. Rectt/7/34/10 dated 23.09.2011, 14.11.2011, 14.11.2011 & 08.02.2012 issued from the office of the 2<sup>nd</sup> respondent denying compassionate appointment to the applicant*
- (ii) *To pass an order directing the respondents 1 to 3 to give compassionate appointment to the applicant in the Department of Posts within a time bound manner*
- (iii) *And to pass such other appropriate orders or directions which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case so as to secure the ends of justice.*

3. Respondents have contested the OA. According to them the applicant had received substantial amount as terminal benefits to the extent of Rs.4.31 lakhs and immovable property that the applicant possesses is to the extent of 10.70 ares (26.420 cents). Further as the applicant has a job in a private school it is decided that the family of the applicant is not in an indigent condition and as such compassionate appointment denied to the applicant.

4. The applicant has filed a rejoinder in which it has been contended that the respondents have done a serious wrong in violating Annexure A-10 guidelines. In the additional reply statement, the respondents have reiterated the same reason for rejection of the case of the applicant and they have relied on certain decisions of the Apex Court.

5. When the matter came up for hearing, on one of the earlier occasions the respondents were directed to produce the records and since the records did not contain comparative statement of the points earned by eight candidates whose cases were considered by the Department for appointment on compassionate grounds. The respondents were directed to make available the comparative statement. The same has now been made available. Counsel for a applicant referred to the comparative statement and submitted that a look at the same would indicate that the applicant has been allocated 71 points (highest of all) and two individuals who were granted compassionate appointment were allocated 60 and 67 points respectively. The legend appended out to the statement indicates that the case of the applicant is not recommended in view of the fact that she possesses land worth Rs.1.71 crore in addition to one house worth Rs.3 lakhs and the applicant is employed in a private school as a teacher. The family is not in dire indigent circumstances.

6. Counsel for applicant thus argued that the purpose of Annexure A – 10 guidelines allocating points for various attributes is thoroughly lost if a person who has secured highest point is denied the compassionate appointment. He has submitted that the applicant's present employment is purely on temporary basis and the same is only as a stop gap arrangement till she gets the compassionate appointment. In so far the value of immovable property is concerned,as per the norms prescribed, points were allotted and, as such, after arriving at the points the respondents cannot be permitted to take into account again such factors to deny compassionate appointment to the applicant.

7. Counsel for respondents on the other hand submitted that as per Tahsildar the land value of immovable property is worth Rs.1.7 crores. The applicant is also an earning member. These are the factors which weighed heavily in the mind of the Committee to reject her case that the family is not in indigent condition.

8. Arguments were heard and documents perused. The Department has framed the guidelines on the basis of DOPT's guidelines. It applies to all the Departments uniformly. It is not the case of the respondents that points are allotted either before or after assessing whether the family is in indigent circumstances. In fact the guidelines inter-alia stated as under:-

*"The efficacy of the Scheme is based on its transparency. It is this aspect which is foremost and hence while considering a request for appointment on compassionate grounds by a Committee, a balanced and objective assessment of the financial condition of the family has to be made taking into consideration its assets and liabilities and all other relevant factors such as the presence of earning member, size of the family, ages of the children and the essential needs of the family etc. This is done to assess the degree of indigence among all the applicants considered for compassionate appointment within the prescribed ceiling of 5% of the direct recruitment vacancies.*

*The existing position has been reviewed in this Department and it has been decided by the competent authority that to achieve the objective of the scheme of the compassionate appointment and to ensure complete transparency, merits of the cases can be conveniently decided by allocating points to the applicants based on various attributes indicated in the references of DOPT from time to time. Accordingly the Department has worked out a system of allocation of points to various attributes based on a hundred point scale.....xxxxxxxxxxxxxxxxxx*

*The above system of weightage not only awards objectivity to the entire method but also ensured complete transparency and uniformity in the selection process. The above method should be strictly followed with immediate effect, keeping in view the instructions issued by the Department of Personnel & Training from time to time."*

9. It could have been a different matter had there been a system where by first penurious condition of the family is assessed on the basis of terminal benefits, recurring monthly income, earning member and also income from immovable property and once on the basis of a prescribed standard, it is held that the family is in indigent condition, for grant of compassionate appointment which will be comparatively less in number when compared to the applications, attributes could be taken into consideration and highest point holder be the person to whom compassionate appointment can be granted. As on date, the above is not the situation of the system. There is only one assessment and that is on the basis of points. As such, the applicant's entitlement for compassionate appointment is crystalised.

10. In so far as value of immovable property is concerned, the mere value will not be sufficient for indigent consideration. It is the recurring revenue that may have to be taken into consideration. The land situated at a particular place and remaining uncultivated, there may not be any encashable value as long as not sold or may not be of use, so far as revenue from the land is concerned. It is not exactly known in the instant case what is generated from the immovable property.

11. As regards job obtained by the applicant obviously the applicant could not wait till her application for compassionate appointment is decided since the two younger children are to be imparted proper education and for the same some other job has to be resorted to. If it is the government employment then certainly the same can be taken into account. In the instant case job is in a private school (stated to be unaided) where the applicant has been serving and the security of the applicant's service therein cannot be guaranteed.

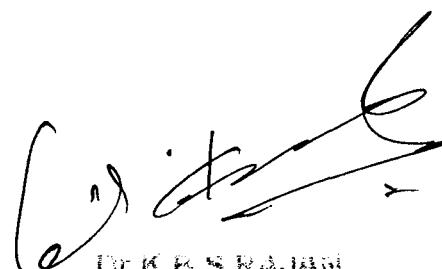
12. In any event, as long as there is no other method other than the guidelines at Annexure A-10 the same only has to be followed and accordingly the applicant being the highest point holder the respondents are bound to grant her compassionate appointment.

13. Counsel for applicant referred to a decision of the Apex Court in the case of **Union of India and another vs. Shashank Goswami and another**, (2012) 11 SCC 307 wherein it has been held that " prevailing compassionate scheme stipulating that so far as post of Group 'C' was concerned, in case of family of deceased had received terminal benefits of more than three lakhs, dependent of deceased would not be eligible for compassionate appointment. Here, the decision is based on a specific rule drawing a line as to who could be considered as eligible for compassionate appointment. In the case of the applicant, Annexure A-10 not prescribing such limits, the method as per the guidelines has to be strictly followed.

14. In view of the above, OA is **allowed**. Respondents are directed to consider the case of the applicant for grant of compassionate appointment against the next available vacancy meant for compassionate appointment.

15. In the above circumstances, there shall be no order as to costs.

Dated, the 28<sup>th</sup> June, 2013.



Dr. K. B. S. RAJAN  
JUDICIAL MEMBER

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