

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 57 of 2010

Thursday, this the 10th day of February, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Vinodini M.L., D/o. Late S. Muralidharan Nair,
 Puthuvavila Veedu, T.C. No. 10/1815, KRWA-178 D,
 Kavalloor Lane, Vattiyoorkavu P.O.,
 Thiruvananthapuram.

Applicant

(By Advocate – Mr. Biju Balakrishnan)

V e r s u s

1. Department of Posts, represented by
 the Chief General Manager, Dak Bhavan, Sansad Marg,
 New Delhi-110001.
2. The Chief Post Master General,
 Kerala Circle, Thiruvananthapuram.
3. The Superintendent of Posts,
 Office of the Superintendent of Post Offices,
 Thiruvananthapuram South Division, Thiruvananthapuram.
4. The Circle Relaxation Committee,
 Kerala Circle, Post Master General Office,
 Thiruvananthapuram.
5. Union of India, represented
 by the Secretary, Govt. of India, Ministry of Communications,
 New Delhi.

Respondents

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 10.02.2011, the Tribunal on the
 same day delivered the following:



ORDER

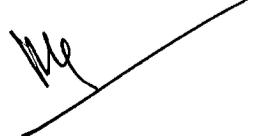
By Hon'ble Mr. Justice P.R. Raman, Judicial Member -

The applicant, who is stated to be a dependent, is claiming compassionate appointment in any vacancy arose pursuant to the death of her father. Applicant's father died while in service on 19.3.2003 at the age of 57 due to heart attack when he had three more years of service left to reach the age of superannuation. According to the applicant she is the only daughter born in the wedlock of S. Muraleedharan and R. Lathika Kumari. The applicant's mother Smt. R. Lathika Kumari is stated to be a acute rheumatic patient. However, the applicant admits that she is married and according to her, her husband is working in a private firm and is getting only a meagre amount of salary. The applicant further states that she has to maintain the family consisting of her daughter as also her own mother. All of them are depending on the meagre amount of the family pension paid by the respondents after the death of her father. An application for compassionate appointment was made as evidenced by Annexure A-7 by her mother which is followed by Annexure A-8 submitted by the applicant herself. But her application is rejected by Annexure A-9 which is impugned in this Original Application. Annexure A-10 produced by the applicant shows the name of the persons who have been recommended for appointment under the dying in harness scheme. By Annexure A-9 applicant was informed that appointment on compassionate grounds is intended to render immediate assistance to the family of the government servant who died in harness leaving the family in financial crisis and it is not intended to ensure employment to each and every member of the family. On a

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comparative assessment it is found that the family is not indigent and hence the applicant is not entitled for the benefits. According to the applicant subsequent to Annexure A-9 she preferred a review application before the appropriate authority who also turned down her request by Annexure A-11 order dated 12.11.2009 on the same ground.

2. In the reply statement filed by the respondents it is stated that the request of the applicant seeking employment under compassionate appointment scheme was examined by the Circle Relaxation Committee (CRC in short) on 22.3.2006 but did not recommend for want of relative indigence. The husband of the applicant was employed as Assistant Works Superintendent, Attukal Temple Trust with yearly income of Rs. 50,364/- and annual income came around Rs.1,00,164/-. The family owned 50 cents of landed property and a house of their own. The family received terminal benefits to the tune of Rs. 4,23,240/- and an amount of Rs. 4373/- + relief was also granted to the mother of the applicant towards family pension. The condition of the family of the deceased was in a better position than the other candidates who applied for the similar benefits. Accordingly, decision of the CRC was communicated to the applicant through the 3rd respondent. The review application was also considered by the reviewing authority but it did not find any reason to review the decision already urged by the CRC. It is further pointed out that the applicant is already married and is having a girl child aged 8 years and her husband is also employed. Apparently the applicant does not come under the purview of appointment on compassionate grounds.

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3. In the rejoinder filed by the applicant it is stated that her husband is employed in a private concern and is not on permanent basis and he has to look after his parents and sisters with the paltry sum of Rs. 4,197/- received by him. It is also contended that the actual extent of property is 30 cents as against 50 cents mentioned in the reply statement.

4. We have heard the learned counsel for the applicant Mr. Biju Balakrishnan and learned Senior Central Government Standing counsel appearing for the respondents Mr. Sunil Jacob Jose, and the arguments advanced on behalf of the applicant as well as the respondents side and perused the pleadings.

5. Annexure R-1 shows that various persons whose breadwinner had died while in employment had applied for similar benefits and the authorities have constituted a committee to scrutinize the applications and made a comparative assessment of the candidates to decide the preference among the candidates. The comparative assessment so made is based on materials available and nothing arbitrary has been done in the matter of rejecting the case of the applicant. Even though the applicant has got a case that her father had incurred liability of four and odd lacs and if this is taken into consideration from out of the retiral benefits there will be nothing left for the family, we are unable to accept the said contention because comparative assessment of the candidate is not to be done by this Tribunal as our jurisdiction is only judicial review of the administrative action and only to see whether the procedure adopted by the authorities does not suffer from

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any arbitrariness. Mathematical precision of such comparative assessment often is not possible or ground for judicial review. From the list it appears that the candidate above the applicant had unmarried daughter whose liability of the family cannot be exactly assessed by a Court or Tribunal. However, more than 7 years have elapsed after the death of the government servant. Appointment under compassionate grounds cannot be granted after several years as it is intended to render immediate assistance to the family of the government servant who dies in harness leaving the family in financial crisis. As a result of the sudden death of the sole breadwinner the family should not be left to the street and in that event a dependent is given employment. When there are more candidates seeking employment under the dying in harness scheme necessarily the authorities will have to consider the comparative merit of the candidates since 5% posts only are kept under direct recruitment quota for appointment on compassionate grounds.

6. On the overall assessment of the situation, we find that the rejection of the applicant's candidature cannot be said to be arbitrary or unreasonable warranting interference by this Tribunal to review the action taken by the administration. Considering the above position, the OA has no merit and the same is dismissed. No order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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