

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO. 569 OF 2002

Wednesday this the 4th day of December, 2002

CORAM

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

Beena John,  
W/o late C.V.John,  
Chettuparambil House,  
Vellangi Thoppil  
Tripunithura,  
Ernakulam District.

....Applicant

(By Advocate Mr. C.S.G.Nair)

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1. Flag Officer Commanding in Chief,  
Southern Naval Command,  
Cochin.4.
2. Union of India, represented by the  
Secretary,  
Ministry of Defence,  
South Block,  
New Delhi-1.

...Respondents

(By Advocate Mr.C.Rajendran, SCGSC (rep.)

The application having been heard on 4.12.2002, the Tribunal on the same day delivered the following:


O R D E R

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

The applicant's husband C.V.John while working as Unskilled Labourer under the First respondent died on 1nn.4.2000 leaving behind the applicant and her two minor daughters now aged 17 years and 15 years as also his old dependent father. As terminal benefits she received Rs. 25,660/- as DCRG after deducting Rs. 23,000/- due to the Naval Base Cooperative Society, Rs. 3228/- towards GPF balance and Rs. 18,178/- as CGEI. The applicant preferred

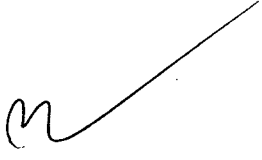
a claim for employment assistance on compassionate grounds on 30.5.2000 (RI). The request was turned down by the impugned order dated 5.2.2002 on the ground that the applicant's name having been placed at Sl.No.4 by the Board, she cannot be offered appointment. The applicant is aggrieved by the rejection of the applicant's claim for employment assistance on compassionate grounds. As the family has been left destitute the applicant seeks to set aside the impugned order and for a direction to the respondents to consider the claim of the applicant and grant her appointment in any Group D posts on compassionate grounds.

2. The respondents in their reply statement contend that the case of the applicant was considered by the committee in the light of the guidelines contained in the scheme and various other instructions issued by the Government from time to time, that compassionate appointment could be made against 5% of the Direct Recruitment vacancies in Group D and Group C occurring in every year, that on the basis of the data and the guidelines, the committee placed the applicant at Sl.No.4 in the order of merit and as there was only three vacancies, the applicant could not be appointed. It is further stated in the reply statement that the applicant was in receipt of Rs. 48,660/- as DCRG, 18,178/as CGEI, Rs. 5,000/approximately as GPF balance and is in receipt of a sum of Rs. 1480/ p.m. as family




pension. Under these circumstances, the respondents contend that the applicant does not have a legitimate grievance.

3. I have very carefully gone through the entire materials placed on record and have heard learned counsel on either side. The learned counsel of the applicant argued that while the applicant young widow aged 37 years submitted her claim for employment assistance on compassionate grounds within a month of the demise of her husband as is evident from Annexure.R.1, the respondents delayed the consideration of the case of the applicant, considered it only in September, 2001 and has rejected the claim of the applicant, on the ground that there was no vacancy in that year. This according to the learned counsel is unjustified and not in accordance with the scheme for grant of compassionate appointment which envisages immediate relief to the families of the Government servants dying in harness and not to be considered at a distance of time which suits the will and pleasure of the competent authority. Had the case of the applicant been considered against a vacancy of the year 2000, the learned counsel argued that the applicant would have fallen within the number of vacancies of that year. That having not done the rejection of the case of the applicant is wholly unjustified argued the learned counsel. Learned counsel for respondents on the other hand argued that as the compassionate appointment can be made only against vacancies available in the quota as has been held by the Apex Court in JT 1996(5) SC 319, the applicant cannot



have a legitimate grievance as there was only three vacancies and the applicant was placed at S1. No.4 taking into account the relevant consideration by the committee.

5. I find considerable force in the argument of the learned counsel of the applicant. The claim for award of compassionate appointment was evolved with a view to enable the dependant family of government servants dying unexpectedly all of a sudden throwing the family in the extreme indigence and poverty. Such claim is not to be kept in the cold storage for years and taken up at a time which is convenient to the department. In this case although the death of the applicant's husband happened on 1.4.2000 and the claim was made on 30.5.2000 the case was considered only in September, 2001 and the rejection order was served on the applicant in February, 2002. The argument of the learned counsel of the applicant had the applicant's case been considered against the vacancy of the year 2000 she would have found a place at the top of the merit list cannot be brushed aside as meritless. The applicant is a widow aged 37 years having no other income excepting the meagre family pension. That she has five cents land in a remote village and a dilapidated house where she is living without any income therefrom cannot be held out as a reason for denying her the benefit of employment assistance on compassionate grounds. The amount of DCRG etc. received by the applicant also is so meagre. At the time of the death of the applicant's husband she had to take care of her old father in-law and to bring up the two minor female children who



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have to be educated and got married of in due time. I am of the considered view that the case on hand depicts a very deserving case for employment assistance on compassionate grounds. Had the case of the applicant been considered at the appropriate time in accordance with the spirit of the scheme, I believe she would have secured appointment in the year 2000 itself.

6. In the light of what is stated above, I set aside the impugned order Annexure.A1. and direct the respondents to consider the appointment of the applicant on a Group D post which would arise next in the 5% quota to be filled by granting employment assistance on compassionate grounds. Orders in that regard shall be issued by the respondents without any delay as soon as the next vacancy in the quota would arise. No costs.

Dated this the 4th day of December, 2002



A.V. HARIDASAN  
VICE CHAIRMAN

(S)



A P P E N D I X

Applicant's Annexures:

1. A-1: A true copy of the Memo No.CS 2809/114A dated 5.2.2002.
2. A-2: A true copy of the scheme for compassionate appointment prescribed by the 2nd respondent in DID No.19 (4)/824-99/1998 D (Lab) dated 9.3.2001.
3. A-3: A true copy of the representation dated 22.2.2002 submitted by the applicant to the 1st respondent.

Respondents' Annexures:

1. R-1: True photo copy of Proforma Part I submitted by the applicant.
2. R-2: True photo copy of Govt. of India Ministry of Personnel, Public Grievances and Pensions (DOP&T) OM No.14014/6/94-Estt(D) dated 9th October, 1998.
3. R-3: True photo copy of Ministry of Defence ID No.19(1)/2000-D (Lab) dated 12th February, 2001.
4. R-4: True photo copy of Board Proceedings constituted for review of all pending employment assistance cases.
5. R-5: True photo copy of Civil Verification received from Collectorate Ernakulam vide letter K.DIs.32510/2000/E2 dated 12th November, 2001.
6. R-6: True photo copy of Headquarters Southern Naval Command, Kochi letter CS 2809/114A dated 8th August, 2002.
7. R-7: True photo copy of Hon'ble CAT Principal Bench, New Delhi order dated 5th March, 2002 in OA 568/2002.
8. R-8: True photo copy of Hon'ble CAT Ernakulam Bench Order dated 5th April, 2002 in OA 221/2002.

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