

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.59/2007

Friday this the 2 nd day of November, 2007.

CORAM:

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

Smt.Omana Amma,
W/o late Shri Mahadevan Pillai,
Venattu, Peringilipuram P.O.,
Chengannur, Pin – 689 624.

Applicant

(By Advocate Shri Prasad V.P. & M.K.Thankappan)

Vs.

1. Union of India,
represented by Secretary,
Ministry of Defence (Navy) (DCP),
New Delhi – 110 011.
2. The Chief of the Naval Staff,
(For DCP) Naval Headquarters
New Delhi – 110 011.
3. Flag Officer Commanding – in -Chief,
Head Quarters, Southern Naval Command,
Kochi – 682 004.

Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC.)

The application having been heard on 2.11.2007,
the Tribunal on the same day delivered the following:

ORDER

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

The applicant is an aspirant for compassionate appointment as per the extant provisions. However, she could not succeed in her attempt to secure compassionate appointment and hence she has approached this Tribunal ventilating her grievances.

2. The following are the list of dates and gist of case.

a) On 30 th December 2001 Shri Madhavan Pillai, Ex-Store Keeper, Naval Aircraft Yard, Kochi expired leaving the applicant and two unmarried daughters, (all are unemployed). Since the applicant is over aged and a chronic Asthma patient, the applicant's unmarried daughter Kum. Ambili Mahadevan, submitted an application with relevant documents to the Headquarters, Southern Naval Command Kochi on 14.2.2002.

b) On 7.3.2003, the Flag Office Commanding-in-Chief, Head Quarters, Southern Naval Command, Kochi has forwarded the application under the Compassionate employment scheme to the District Collector, Ernakulam for verification of details therein and report the matter.

c) The District Collector, Ernakulam on 31.7.2002 informed the Flag Officer Commanding-in-Chief, Headquarters, Southern Naval command, Kochi that the applicant's family does not have landed property and they possess movable property worth Rs.12,000/- only.

d) Naval Authority instructed the applicant's daughter to join as a Cashier-cum-Dispenser in SNC Service Station on contract basis for a period of one year from Ist. January 2003.

e) The letter addressed to the naval Authority is dated 20.1.2003. The Board of Officers considered the applicant's case in its three meetings in the year 2002, but did not find it as a really deserving case to be considered under the 5% vacancies earmarked for Compassionate appointment.

f) The Ministry of Defence had informed the applicant that her daughter scored only 48 weightage points and hence her merit position was 58. In that situation, the Board has not recommended the case of the applicant for grant of compassionate appointment as there were more deserving cases against limited vacancies available.

3.

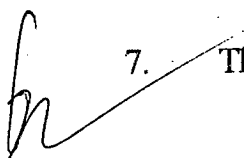
The respondents have contested the OA. According to them, the case of the

applicant was considered thrice as per rules and as more deserving cases are available for appointment against comparatively limited vacancies, the most deserving are being given the appointment under the 5% quota.

4. Records were called for and it is observed that the respondents have considered the case of the applicant judiciously and meticulously and have found that the applicant has secured only 48 points consequently for three occasions whereas the meritorious who are to be offered appointment first secured more than 70 points. The systematic way of preparation of the statement reflecting all the items confirm that the scrutiny made by the respondents is unbiased, uninfluenced by any other consideration and based on the merit of each case.

5. Counsel for the applicant submitted that it is not exactly known whether the 5% vacancies have been worked out taking into account the latest instructions on the subject. Again, he has pointed out that provision exists for ascertaining from other Ministries/Departments whether vacancies for compassionate appointment are available and it is not clear whether this channel has been exhausted by the respondents.

6. The case has been considered. The applicant has been awaiting a favourable response from the respondents since 2001 for appointment of her daughter. And the respondents could decide the case only in 2005 and that too giving a negative reply. The delay in communication of the decision could easily be explained as the respondents have been considering the applicant's case periodically.

 7. The following are the latest orders relating to the working out of 5% direct

Recruitment Vacancies and records do not reflect whether the latest formula for working out the vacancy position had been taken into account.

No.14014/3/2005-Estt.(D)

**Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training**

.....

New Delhi, dated the 14 th June, 2006.

**Subject: Scheme for Compassionate Appointment under
the Central Government- Determination of
vacancies for.**

.....

The undersigned is directed to say that the existing Scheme for Compassionate Appointment is contained in this Department's O.M.No.14014/6/94- Estt.(D) dated the 9 th October, 1998 as amended from time to time. Para 7 (b) of this O.M.provides that compassionate appointment can be made upto a maximum of 5% of vacancies under Direct Recruitment quota in any Group 'C' or 'D' post.

After coming into effect of DOP&T instructions No.2/8/2001-PIC, dated the 15th may, 2001 on optimization of direct recruitment to civilian posts, the direct recruitment would be limited to 1/3rd of the direct recruitment vacancies arising in the year subject to a further ceiling that this does not exceed 1% of the total sanctioned strength of the Department. As a result of these instructions, there has been a continuous reduction in the number of vacancies for direct recruitment, consequently resulting in availability of very few vacancies or no vacancy under 5% quota for compassionate appointment. Because of this, the various Ministries have been facing difficulty in implementing the Scheme for Compassionate Appointment even in the most deserving cases.

On a demand raised by Staff Side in the Standing Committee of the National Council (JCM) for review of the compassionate appointment policy, the matter has been carefully examined and taking into account the fact that the reduction in the number of vacancies for compassionate appointment is being caused due to operation of the orders on optimization of Direct Recruitment vacancies, the following decisions have been taken:-

While the existing ceiling of 5% for compassionate appointment may not be modified but the 5% ceiling may be calculated on the basis of total direct recruitment vacancies for Group 'C' and 'D' posts (excluding technical posts) that have arisen in the year. Total vacancies available for making direct recruitment would be calculated by deducting the vacancies to be filled on the basis of compassionate appointment from the



vacancies available for direct recruitment in terms of existing orders on optimization.

The instructions contained in the O.A. No.14014/6/94-Estt (D) dated 9 th October, 1998, as amended from time to time stand modified to the extent mentioned above.

The above decision may be brought to the notice of all concerned for information, guidance and necessary action.

Hindi version will follow.

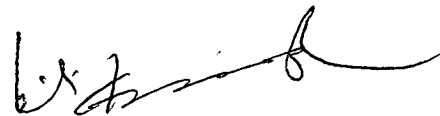
**Sd/-
(Smita Kumar)
Director (E.I)**

8. Again, attempt may be made to forward the case of the applicant to one or two Ministries so that in case there be any vacancies under Compassionate appointment quota, the ministries may consider the same.

9. In case the respondents consider the case of the applicant under the liberal 5% vacancies and if the applicant's case comes within the parameters for compassionate appointment on the basis of the points scored, the applicant's daughter be considered for appointment against a suitable post. In the event of the case of the applicant not coming within the merit even after applying the liberal formula, the applicant be suitably informed.

10. No cost.

Dated the 2nd November, 2007



**Dr.K.B.S. RAJAN
JUDICIAL MEMBER**