

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.583/2003.

Friday this the 23rd day of January 2004.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

I.B.Pradeep, S/o Late Mr. S.P.Balakrishnan,
residing Illyakottil House, Pallikurup,
Tachampara-678 593,
Palakkad District.

Applicant

(By Advocate Shri M.R.Rajendran Nair)

Vs.

1. Superintendent of Post Offices,
Ottapalam Postal Division,
Ottapalam-679 101.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum-695 001.
3. Union of India represented by its Secretary,
Government of India,
Ministry of Communications,
New Delhi.

(By Advocate Shri P.J.Philip, ACGSC)

The application having been heard on 23.1.2004, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

This is the second round of litigation before this Tribunal wherein the applicant is seeking compassionate appointment on account of the untimely death of his father in 1995. Earlier, the applicant has filed O.A.1074/01 challenging A-3 and A-5 orders of the 3rd respondent and 5th respondent respectively. The said O.A. was disposed of by directing the respondents to consider the detailed representation to be filed by the applicant and pass a speaking order thereon. The matter was apparently reconsidered by the 3rd respondent in the light of the fresh representation and the result is A-1 order dated 20.3.03 holding again that the applicant's case was not covered by the

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guidelines governing compassionate appointment. In short, the applicant's case even on reconsideration, stands rejected, and hence this O.A. with prayers for quashing A1, A3 and A5 orders and for a declaration that the applicant is entitled to be considered for compassionate appointment under the Department of Posts and for a direction to the respondents to consider the applicant for compassionate appointment to any suitable post and to grant him such appointment at the earliest.

2. In the reply statement filed by the respondents it has been pointed out that the applicant's case has been considered by the Circle Relaxation Committee with reference to the details of the family, the income by way of family pension, employment of the family members, their assets and liabilities and other details. The Circle Relaxation Committee came to the finding that the applicant's case did not come within the guidelines of compassionate appointment calling for relaxation of normal Recruitment Rules. It is stated that all the parameters including the applicant's family property position was also examined when the matter was reconsidered. It was found that the applicant's family owned ancestral property consisting of a house and about 5 acres of land to be partitioned among five members. Referring to the ceiling of 5% of the direct recruitment vacancies for the purpose of compassionate appointment, the respondents have maintained that, there was no vacancy available for considering the applicant's case and in such a situation it was not possible to accommodate him. The respondents' decision was in consonance with the principles laid down by the Apex Court in various judgements. It was on the basis of the totality of the cases, facts and circumstances and not with reference to any aspect in isolation that, the decision in this regard was taken. The respondents have emphatically averred that compassionate

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appointments have been given to only more deserving cases and no injustice was shown in the case of the applicant. Instance of a similar case decided by this Tribunal and confirmed by the Hon'ble High Court has also been referred to by the respondents vide Annexure R-1.

3. I have gone through the entire material on record and heard Shri M.R.Hariraj, learned counsel for the applicant. None appeared for the respondents.

4. According to Shri Hariraj, although the respondents were called upon to consider the facts of the case with proper application of mind, the case has not been considered with the due seriousness which it deserved. According to the counsel for the applicant, the Tribunal in its earlier order had directed the respondents to take into account the facts like expenditure for treatment of the grand parents met out ^{of} the pensionary benefits received, liability on account of educational expenses, the property being held up in Civil Suit etc. and other relevant factors. However, these aspects have not been considered in proper perspective. The respondents have not shown as to who are the more deserving candidates who have been accommodated by grant of compassionate appointment and how the applicant's case is found less deserving than others. He would, therefore, plead that this is a case warranting issue of direction to the respondents to consider the applicant for appointment on compassionate grounds in any suitable post in the respondent organisation.

5. On a consideration of the relevant facts, I find that in A-1 order, after explaining the factual background of the case that led to the issue of impugned A-3 and A-5 orders, the

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respondents have proceeded to consider the applicant's submissions as per his representation. In fact, in paragraph 4 of A-1, the respondents have summarized the contentions of the representation. It is noticed that the respondents have considered the various parameters like ceiling of 5% of the Direct Recruitment quota vacancies to be earmarked for compassionate appointment, financial background of the family etc. with reference to the principles laid down by the Hon'ble Supreme Court. The respondents have also made a reference to the fact that the applicant's family have been able to survive for the last five years with sufficient wherewithal. The fact that the family is in possession of ancestral property consisting of a house and 5 acres of land to be partitioned among five members, is specifically taken note of. Thus, as far as I can see the respondents have considered the various aspects and come to the ~~finding that~~ ^{the} applicant's case does not fall within the ambit of the guidelines governing grant of compassionate appointment.

6. In such a factual situation, I am afraid, ~~that~~ ² the Tribunal cannot interfere and proceed to direct the respondents to consider the applicant's case. There is no malafide alleged, nor is there any proof of discrimination. The impugned A-1 order is a speaking order touching upon all the relevant aspects. The O.A., being without merit, is dismissed. No order as to costs.

Dated the 23rd January, 2004.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER