

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A No.60 of 2010

Thursday, this the 14<sup>th</sup> day of July, 2011.

CORAM

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

Renjith,  
S/o late K.V.Purushothaman,  
Kuzhikandathil, Tripunithura,  
Ernakulam. ....Applicant

(By Advocate Ms C.K.Prameela )

v.

1. The Union of India represented by  
its Secretary,  
Ministry of Telecommunications,  
New Delhi.
2. The Chief Postmaster General,  
Department of Post,  
Kerala Circle, Trivandrum.
3. The Director General,  
The Department of Post,  
Dak Bhavan, New Delhi. ....Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC )

This application having been finally heard on 11.7.2011, the Tribunal on 14.07.2011 delivered the following:

ORDER

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

The applicant's father while working as Postman expired on 28.4.2002. He was survived by his widow, a visually challenged elder son and the applicant. The applicant was minor at the time of the demise of his father. Applicant belongs to Scheduled Caste Community. The applicant's mother submitted an application for being considered for compassionate appointment in favour of the applicant in June 2003 by the Annexure A-1. The same was, however, rejected vide Annexure A-2 stating that the two sons are grown up and deserving cases



were considered and that no big liability existed. The applicant, on attaining majority, made a representation vide Annexure A-3. This was also rejected on the ground that there are more deserving cases and the liabilities of the family were not high. In addition, it was stated that the appointment on compassionate ground is intended to render immediate assistance. The limitations as to the number of vacancies (50% DR quota) was also by hand, in the said communication.

2. Undaunted by repeated rejection, the applicant once again through his mother preferred a representation vide Annexure A-5. There was, however, no response to the same and the applicant continued to make representations vide Annexure A-7.
3. As no fruitful result came out, the applicant has moved this O.A seeking a direction to the respondents to consider the claim of the applicant for appointment on compassionate ground.
4. Respondents were contested the O.A. They have reflected the limited number of vacancies and various details of the Circle Relaxation Committee which met on a number of occasions.
5. Counsel for the applicant argued that the respondents had not taken into consideration the fact that applicant has a visually challenged brother. Counsel also submitted that comparative figures have not been given by the respondents.
6. Counsel for the respondents on the other hand submitted that the applicant was considered in the proper perspective and because of limited number of vacancies coupled with the fact that more deserving cases were



available, the applicant could not be given compassionate appointment.

7. Arguments were heard and documents perused. The Apex Court in a number of cases have discussed the issue as to the compassionate appointment has to its exception to the normal rules of recruitment. The Apex Court has also cautioned that compassionate appointment should be strictly in accordance with the provisions contained in the scheme. In a latest judgment in **Bhawani Prasad Sonkar v. Union of India - C.A.No.5101/2005 dt.11.3.2011**, the Apex Court held as under:

"15. Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our Constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve. We do not purpose to burden this judgment with reference to a long line of decisions of this Court on the point. However, in order to recapitulate the factors to be taken into consideration while examining the claim for appointment on compassionate ground, we may refer to a few decisions.

- (i) *Umesh Kumar Nagpal v. State of Haryana,*
- (ii) *Steel Authority of India Ltd v. Madhusudan Das*
- (iii) *General Manager, State Bank of India v. Anju Jain*"

Ultimately, the Apex Court has held as under:-

"20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

- (i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing

scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

- (ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.
- (iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/ incapacitated employee's family at the time of his death or incapacity, as the case may be.
- (iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

8. The Tribunal is bound to follow the law laid down by the Apex Court and keeping in view the same when the case is analyzed, it is evident that the applicant's case was considered. As more deserving cases were available, the respondents have rightly rejected the claim of the applicant. As such, there is no option but to **reject** the case of the applicant. I accordingly order so.

9. There shall be no order as to costs.



Dr K.B.S.RAJAN  
JUDICIAL MEMBER