

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 603
T. A. No.

1989

DATE OF DECISION 29.6.90

P. K. Surendaran Applicant (s)

M/s. M. V. Ibrahimkutty Advocate for the Applicant (s)

Versus

UOI rep. by Secretary,
Communication and others Respondent (s)

TPM Ibrahim Khan for R 1-3 Advocate for the Respondent (s)

P. Kesavan Nair for R-4

CORAM:

The Hon'ble Mr. M Y PRIOLKAR, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The son^a born in the first wife of ^b the Government employee, who died in harness, is the applicant. The marriage of the applicant's mother was legally dissolved on 24.7.65. Thereafter the Government servant married the fourth respondent. While the fourth respondent and the applicant's father were living together the death occurred on 20.4.87. Both the applicant and the fourth respondent filed application for compassionate appointment alleging that the family is in indigent circumstance after the death of the father. According to the applicant

ever since the divorce of the first wife, the mother of the applicant ^{he is} was maintained by his father, the Govt. employee and according to him he is a dependent entitled to compassionate appointment on the basis of the guidelines issued by the Government. His grievance is that after receipt of his application he was informed that his request would be examined. Annexure A-4 was the communication issued to the applicant on 29.4.1987. Thereafter without conducting any enquiry a compassionate appointment was given to the fourth respondent as per memorandum dated 23.2.89 (Annexure B-4(k)). The applicant in this case is challenging the aforesaid memorandum granting compassionate appointment to the fourth respondent w.e.f. 6.2.89.

2. The respondents 1 to 3 and the fourth respondent have filed separate detailed counter affidavit in this case. They have denied all the allegations made by the applicant and submitted that the fourth respondent is the real dependent of the deceased Govt. servant and that the fourth respondent's family is in indigent circumstance when the Govt. employee died in 1987. They have also stated about some family disputes with regard to the property and the pensionary benefits due to be paid to the dependent on account of the death of the Government employee.

3. However, these are not matters relevant for deciding the issue raised before us. The only question

to be considered is as to whether the applicant or the fourth respondent is the actual dependent of the Government servant entitled to compassionate appointment on the facts and circumstances of the case.

4. It is an admitted fact that the marriage of the applicant's mother with the Government servant was legally dissolved w.e.f. 1965. It is also admitted that subsequently the Govt. servant married the fourth respondent and they were living together till the death. The rival claims of the applicant and the fourth respondent for compassionate appointment has to be considered in the ~~fact and by~~ light of ~~these~~ background. It is seen from the records that the Committee which considered the claims, in the light of the guidelines issued in this behalf by the Government of India, found that the fourth respondent is the dependent of the Govt. servant eligible for compassionate appointment. The relevant portion of the counter affidavit of respondents 1 to 3 is extracted below:

"Enquiry by this department showed that the death of Shri Kuttan Nair has put the 4th respondent and her children in indigent circumstances and she was given relaxation appointment strictly in keeping with the guidelines contained in Annexure A-2. The case of the applicant was also considered but found not deserving by the Circle Relaxation Recruitment Committee. Annexure A-4 is only a formal Acknowledgement and in fact the department considered the application for appointment on compassionate ground but ~~it~~ was rejected as it was found not deserving."

5. In the light of this clear statement we see no merit in the applicant's contention that there was no

enquiry or order by the concerned authority about the eligibility of the compassionate appointment. The order challenged in this case has been passed after conducting due enquiry and taking a final decision on the rival claims of both the applicant and the fourth respondent.

6. Then the next question is whether a notice is necessary to the applicant in an enquiry of this nature. This is a case, as indicated above, of rival claims having been made for compassionate appointment after the death of the Govt. servant. Both parties have produced available documents and the Committee has only to examine them and take a decision. When such claims are being considered by the Relaxation Recruitment Committee in terms of the guidelines issued by the Govt. for the grant of compassionate appointment, invariably issue of notice to the parties is dispensed with. No notice need be issued to the parties. After a careful consideration of the claims of the applicant and the fourth respondent the Committee came to the conclusion that the fourth respondent, who is the wife of the Govt. servant at the time of his death, deserves immediate assistance by the grant of a compassionate appointment and accordingly the impugned order was issued. This cannot be held to be invalid and there is no irregularity in the procedure adopted in the matter of enquiry.

7. Having regard to the facts and circumstances, of this case we are of the view that the applicant has not

established his case for compassionate appointment. So we uphold the order of compassionate appointment given to the fourth respondent and dismiss the application.

8. There will be no orders as to costs.

N. Dharmadan
29.6.90.

(N. Dharmadan)
Member (Judicial)

M.Y. Priolkar

(M.Y. Priolkar)
Member (Administrative)

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