

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 607/2001

Thursday this the 29th day of November, 2001.

CORAM

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.S.Ajikumar
S/o P.V.Sreedharan
Residing at Sreenilayam
Chingavanam P.O.
Kottayam.

Applicant.

[By advocate Mr. M.R.Rajendran Nair]

Versus

1. Union of India represented by the
Secretary to Government of India
Ministry of Communications
Department of Posts
New Delhi.

2. The Chief Post Master General
Kerala Circle
Trivandrum.

3. The Senior Superintendent of Post Offices
Kottayam Division
Kottayam.

Respondents.

[By advocate Mr K.V.Sachidanandan]

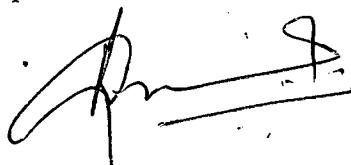
The application having been heard on 29th November, 2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, son of P.V.Sreedharan, aged 31 years, aggrieved by A-1 order dated 17.4.2001 by which 3rd respondent informed him of the non-recommendation of his case for compassionate appointment by the Circle Relaxation Committee, has approached this Tribunal through this Original Application seeking the following reliefs:

- i. To quash Annexure A1.
- ii. To declare that the applicant is entitled to be considered for compassionate appointment under the Department of Posts and to direct the respondents to consider the applicant for compassionate appointment to any suitable post and to grant him such appointment without delay.

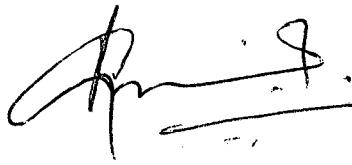


iii. Grant such other reliefs as may be prayed for and the Court may deem fit to grant, and

iv. Grant the cost of this Original Application.

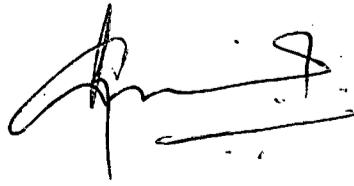
2. According to the applicant, he was the elder son of late Smt. V.M.Pankajakshy who expired on 2.9.2000 leaving behind her husband and two sons. By A-3 memo dated 26.3.2001 issued by the 3rd respondent, Rs. 2300/- per month was authorized as provisional family pension to the applicant's father Sri P.V.Sreedharan. According to the applicant, the family owns 12.5 acres of land and resides in a house built on the said landed property, the value of the property being Rs. 1.5 lakhs. Applicant's father is a pensioner receiving an annual pension of Rs. 42,780/-. According to the applicant, his father had undergone a bypass surgery for which he had spent Rs. 1.5 lakhs. To meet this expenditure, he had borrowed Rs. 1.25 lakhs from his relatives, out of which Rs. 1.05 lakhs was outstanding. Applicant's younger brother is an employee of District Treasury, Palai, with a basic pay of Rs. 3000/-. According to the applicant, the sudden demise of his mother Smt. Pankajakshi had deprived the family of one of its earning members and the family found itself in a situation where it was difficult to make both ends meet and the applicant submitted A-4 representation dated 25.9.2000 to the 3rd respondent requesting him to consider him for compassionate appointment. Applicant received A-1 reply and aggrieved by A-1, the applicant has filed this Original Application seeking the reliefs mentioned above.

3. Respondents filed reply statement resisting the claim of the applicant. According to them, as per the extant Government orders, compassionate appointment could be provided

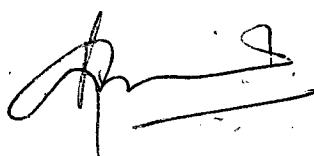


only to fill up 5 % of the vacancies that arose for direct recruitment and hence it became essential to ensure that only more deserving cases were considered and approved and in the instant case the family of the applicant was receiving terminal benefits and was drawing family pension and also service pension. The brother of the applicant was employed and drawing salary. That being the factual position, the applicant was not covered under the guidelines governing compassionate appointment. The Circle Relaxation Committee which met on 5.2.2001 had considered the applicant's claim in the light of the existing guidelines. All factors like the size of the family, liabilities for education of minor children, marriage of female children, other liabilities, existence of earning members, age of children etc., were considered and as the case of the applicant did not come under the existing guidelines, it was rejected by the Circle Relaxation Committee and the 3rd respondent had intimated the decision of the Circle Relaxation Committee to the applicant by A-1 letter.

4. Heard learned counsel for the parties. Learned counsel for the applicant Sri Hariraj submits that as could be seen from A-1 the impugned order, the only reason for rejecting the claim of the applicant for compassionate appointment was that the family had received admissible terminal benefits and they were drawing regular family pension. Citing the judgement of the Hon'ble Supreme Court in Balbir Kaur and another Vs. Steel Authority of India Ltd. and others (2000) 6 SCC 493 it was submitted that this alone could not constitute the ground for rejection of a claim for compassionate appointment. Relying on

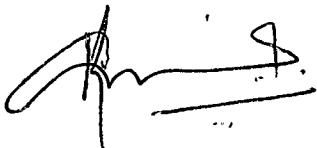


the following clause in the O.M. No.1494/6/94-Estt. (D) dated 9.10.98 of the Government of India, Department of Personnel and Training - "The scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government Servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government Servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment to the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors, such as, the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.", he submits that the rejection of the applicant's request for compassionate appointment for the reason stated in the impugned A-1 order was against the above instructions of the Government of India. According to him, from A-1 it is discernible that the Circle Relaxation Committee had not given consideration to the relevant aspects of the instructions issued by the Government of India. Relying on the judgement of Hon'ble Supreme Court in Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others, AIR 1978 SC 851 he submits that the reason given in the impugned order could not be supplemented by giving reasons in the reply statement of the

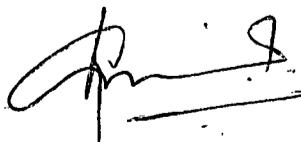


respondents. Learned counsel for the respondents taking me through the pleadings in the reply statement submits that apart from the family pension being received by the family, the father and the brother of the applicant are also earning members and as the Circle Relaxation Committee had found his case to be not a deserving one and the Chief Postmaster General had, accepting the recommendations of the Circle Relaxation Committee, rejected the claim for compassionate appointment of the applicant. Learned counsel submits that the rejection was as per the guidelines issued by the Government of India and the OA is devoid of merits. Counsel cited the order of this Tribunal in OA 1150/2000 (R-2) in support of the submissions.

5. I have given careful consideration to the submissions made by the learned counsel for the parties, the rival pleadings and also perused the documents brought on record. Applicant is seeking to quash A-1 and also for a declaration that he is entitled to be considered for appointment on compassionate ground under the Department of Post and for a direction to the respondents to consider him for compassionate appointment to any suitable post and to grant him such appointment without delay. This would indicate that the applicant is not only wanting to examine the validity of the impugned order A-1 but also wants this Tribunal to examine the case of the applicant on merits in accordance with the guidelines issued by the Government of India. Accordingly I proceed to examine the case of the applicant on merits. According to the applicant's own admission, applicant's father is in receipt of pension in addition to the family pension on

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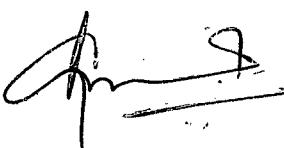
account of the demise of his (applicant's) mother. I notice from the A-4 representation submitted by the applicant to the 3rd respondent that his mother who passed away on 2.9.2000 was due to superannuate in November 2000. This would indicate that the mother of the applicant had only 2 more months of service left when she passed away. It is also noticed that the family has landed property, value of which is Rs. 1.5 lakhs and the brother of the applicant is also employed. Thus the position that emerges is that out of the 3 surviving members of the family of Smt. Pankajakshi, two viz. father and elder son are in receipt of monthly income by way of pension and salary in addition to the father receiving family pension on account of the demise of his wife viz. the applicant's mother. When the applicant's case is considered keeping in view the guidelines contained in O.M. dated 9.10.98 of the Dept. of Personnel & Training extracted above, the family would be found not to be in that distressed condition due to the demise of the government employee. In the reply statement it had been submitted that all these factors had been taken into account by the Circle Relaxation Committee while considering the case of the applicant. As regards para 3 (d) of the reply statement to which learned counsel for the applicant drew my specific attention and submitted that the Circle Relaxation Committee could not have considered the employment particulars of the brother of the applicant which had been stated in the OA, even though I find that there is validity in what the ~~applicant~~ ^{Counsel for} states, this will not alter the factual position that the brother of the applicant is employed now when judicial scrutiny of the applicant's case for eligibility for compassionate



appointment in the context of the reliefs sought for by the applicant in the OA. I also find that as per the instructions of the Government the undisputed fact is that only 5% of the vacancies arising are earmarked for compassionate appointments. When such is the case, there is necessity for exercising proper scrutiny of the proposals received for compassionate appointment on the basis of the merit of each case. In the light of the factual position obtaining in this case, I am of the view that the rejection of the applicant's case by the respondents cannot be said to be against the guidelines contained in the O.M. dated 9.10.98. In these circumstances, even though Annexure A1 could have been worded better, the applicant is not entitled for any of the reliefs sought for and accordingly the application is liable to be dismissed.

6. I also find that a Division Bench of this Tribunal in similar circumstances has considered the case of applicant in OA No.1150/00. From the details given in R-2 order dated 14.2.01, I find that in that case the factual position of the family was as follows:

"The facts in a nutshell is that late Shri Narendran Nair while serving as a postman died on 3.6.97 leaving behind his widow, a son - the applicant and a daughter. The daughter was subsequent to his death, married away and the family is possessed of a 1 acre and 5 cents of land and a house, without sufficient income to get on, according to the applicant. The applicant's request for compassionate appointment was rejected on the ground that the Circle Relaxation Committee found the family of the late official not in great distress or in indigent circumstances, to deserve compassionate appointment. It is alleged in the application that the applicant's father had taken a loan for construction of the house, that for completion of the said construction, as also for the marriage of his sister, the applicant had obtained loans from the Service Cooperative Bank, and that as the applicant is not employed, he is finding it difficult to both the ends meet. The applicant has sought for quashing of A-1 and A-3 and for a direction to the respondents to consider the representations made by the applicant under the scheme for compassionate appointment."



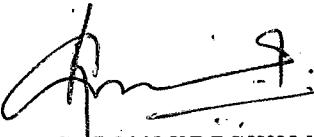
7. The Division Bench held as follows:

"The scheme for compassionate appointment was evolved with the laudable objective of making the families of employees dying in harness to survive the extreme poverty and indigence to which they are unexpectedly thrown into and not intending to give employment to every son or daughter of a deceased employee. In this case, the family consisted of widow, a daughter and a son. The daughter has already been married. Son on the date of this application is aged 27 years old. The widow is in receipt of family pension. Though it cannot be said that with the family pension and 1 acre and 5 cents of land and a good habitable house, the family is in a very affluent situation, when compared to families where even a shelter is wanting, the condition of the family can be said to be better. The respondents have limitations in giving compassionate appointments because the claims have to be met within the limit of 5% of vacancies. This 5% of vacancy has to be distributed among the claimants based on the comparative hardship. It is on such an assessment of the situation and on the basis of facts and figures collected that the Circle Relaxation Committee has considered the family not in such an indigent circumstance which calls for employment assistance on compassionate ground."

8. From the factual position obtaining in this case OA, I find that the family of the deceased employee in this OA to be similar if not a shade better than the family in the above OA. Thus even though all the reasons have not been stated in the impugned order for rejection, I do not find any infirmity in the rejection of the applicant's case for compassionate appointment.

9. Accordingly I dismiss this Original Application with no order as to costs.

Dated 29th November, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

APPENDIX

Applicant's Annexures:

1. Annexure A1 : True copy of the order No.81/3(a)/99 dated 17.4.2001 issued by the third respondent.
2. Annexure A2 : True copy of the Death Certificate issued by the Secretary to Register of Births and Deaths, Nettakom Grama Panchayath.
3. Annexure A3 : True copy of the Memo No.C-721 dated 26.3.2001 issued by the third respondent.
4. Annexure A4 : True copy of the representation dated 25.9.2000 submitted by the applicant to the third respondent.

Respondents' Annexures:

1. Annexure R1 : True copy of the order No.Pn-C/421/2000-2001 of April, 2001 issued by the Asst. Chief Accounts Officer(Pn) Postal Accounts, Trivandrum.
2. Annexure R2 : True copy of the order in O.A. No.1150/2000 dated 14.2.2001 of this Hon'ble Tribunal.

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