

CENTRAL ADMINISTRATIVE TRIBUNAL:ERNAKULAM BENCH

Date of decision: 18.1.1990.

Present

Hon^{ble} Shri NV Krishnan, Administrative Member
and

Hon^{ble} Shri N Dharmadan, Judicial Member

OA 620/89

1 MK Bhageerathi Amma
2 R Ajith Kumar : Applicants

Vs.

1 Union of India rep. by its
Secretary to Govt. of India
Ministry of Industry, Secretariat,
New Delhi.
2 The Deputy Director (Admn)
Office of the Development
Commissioner, New Delhi-11 : Respondents
MR MR Rajendran Nair & PV Asha : Counsel of Applicants
Mr PVM Nambiar, SCGSC : Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The two applicants are aggrieved by the impugned order dated 21.7.88 (Annexure 1) from the Development Commissioner, New Delhi to Director, Production Centre, Ettumanoor, a copy of which was communicated to the first applicant on 11.8.88, to the effect that the representation dated 6.6.88 made by the first applicant for the appointment of her son, the second applicant, on compassionate ground has been examined again and the second respondent could not accede to her request in this behalf.

2. The facts of the case leading to the issue of the impugned order can briefly be stated:

2.1 Shri R Venugoplan Nair was working as Mistry in the Government of India Production Centre, Ettumanoor.

He died on 9.6.87, leaving behind his wife R Eswari and a minor son. Besides, he also left behind his mother, the first applicant, his father and a younger brother, the second applicant.

2.2 It is stated in the application that the deceased was the sole earning member of the family and he was supporting the family. The first applicant and her husband (i.e., the parents of the deceased) allegedly do not have any other source of livelihood except 10 cents of property. The second applicant is the younger brother of the deceased. He has passed the SSLC and the application is to direct the respondents to give appointment to the second applicant on compassionate grounds.

2.3 A representation made in this behalf by the first applicant on 6.6.88 was rejected by the impugned order dated 21.7.88 (Annexure-1). Thereafter, the first applicant made one more representation on 21.10.89 (Annexure II) which has not elicited any response. Hence, the two applicants have filed this application.

3 The respondents have filed a reply stating that the application may not be allowed as it is devoid of any merit.. The reasons for rejecting the request of the first applicant for giving compassionate appointment to her second son (i.e., the younger brother of the deceased) are stated as follows:

" The submission of the applicant that the deceased government servant was the sole earning member of the family is not correct, because the wife of the late government servant was holding a job in

P&T. The reasons for rejecting the request of Smt Bhageerathy Amma, mother of the late government servant for appointment of her second son, are that a brother is not included in the natural family of the government servant and when one member is already holding a job, providing of another job is not in accordance with the rules on the subject".

They rely on the instructions on the subject exhibited as Annexure R1. It is also stated that the widow of the deceased government servant is already employed and she has stated in writing that she does not require any government assistance and is capable of maintaining herself ^{her} and/ child (Annexure R2).

4 We have perused the records and heard the learned counsel. It was stressed by the learned counsel for the applicant that the respondents have not considered the representation made in the light of the O.M. dated 30.6.87 which contained the consolidated instructions on the subject. For, according to para 1(a) ^{of} these instructions ^{apply} relating to compassionate appointment either to a son or a daughter or a near relative of a government servant who dies in harness. It was also pointed out by him that the daughter-in-law of the first applicant (i.e., the wife of the deceased) is no doubt employed, but according to the ^{while} natural customs the parents can expect their son to give protection to them in their old age, ~~xxx~~ they cannot normally expect such protection from their daughter-in-law, particularly, after she has herself lost her husband. Further, the first applicant and her husband (i.e., the parents of the deceased government servant) are too old

and they have no other source of livelihood. It is for that reason that the request for compassionate appointment in favour of the second applicant has to be considered with sympathy.

5 We are of the view that some of the special features of this case have apparently ² ~~has~~ not been considered before passing the impugned order. The respondents cannot reject the application merely on the ground that the brother of the deceased (i.e., the second applicant in this case), not being a member of the natural family of the deceased government servant, cannot be given compassionate appointment. This argument has no basis for, as rightly pointed out by the counsel of applicant, para 1(a) of the Annexure R1 ~~of this~~ memorandum makes the instructions applicable to even a near relative. In fact, this sub-para does ^{even} ~~even~~ state that a near relative may be considered only if there is no son or daughter. Further, there is no restriction as to who should be considered as member of the family needing assistance, by defining its scope.

6 Normally, the persons who would have needed such assistance in such cases, is the widow of the deceased government servant and his children. The widow of the deceased government servant ^{in the present case} ~~has~~ given in writing in Annexure R2, that she being in service, she is in a position to support herself and her minor son without any further assistance. She ^{has,} ~~therefore,~~ ^{gracefully} ~~stated~~ that

she has no objection if a compassionate appointment is given to the second applicant who is the brother of her husband, the deceased government servant. It is also to be noted that within her limitations, she has been able to only state that she would be able to take care of herself and her minor son on the pay being drawn by her. Therefore, the parents of the deceased government servant cannot get or expect any support from the wife of the deceased government servant. This is a factor which should have been taken into account.


7. Para 1(a) of Annexure-R1 clarifies that the instructions apply to a near relative of a government servant leaving his family in immediate need of assistance where there is no other earning member in the family. In the larger sense ~~of~~ the expression "family" will also include the dependant's parents and brother, unless they are specifically excluded from the purview of that expression. The applicants have stated that the old parents of the deceased are in need of assistance. As mentioned above, though the deceased has left behind the widow who is an earning member, it is clear from her own statement

(Annexure-R2) that she would not be able to support the old parents of the deceased.


8. In the circumstances, we allow this application.

The impugned order at Annexure-1 is quashed. The Respondents are directed to re-examine the representation made by the applicant in the light of the averments made in this application, the standing instructions at Annexure-R1 and the observations we have made in the preceding paragraphs and communicate their decision to the applicants within a period of two months from the date of receipt of this order.

9. There will be no order as to costs.


(N. Dharmadan)
Judicial Member

18.1.90.


(N.V. Krishnan)
Administrative Member

18th day of January, 1990.