

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

CA 68/2001.

Tuesday this the 1st day of January, 2002.

CORAM

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Jimmy Philip
S/o Philip
T.C.No.107
MRA 10, Kunnukuzhi P.O.
Thiruvananthapuram.

Applicant.

[By advocate Mr.N.Gopalakrishnan Nair]

Versus

1. Assistant Administrative Officer
Liquid Propulsion Systems Centre
ISRO, Valiamala P.O.
Thiruvananthapuram.
2. Union of India represented by
Director, Department of Space
Liquid Propulsion Systems Centre
ISRO, Valiamala P.O.
Thiruvananthapuram.

Respondents

[By advocate Mr.C.N.Radhakrishnan]

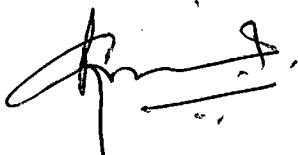
The application having been heard on 1st January, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant aggrieved by A-2 letter dated 4.10.99 issued by the first respondent rejecting his request for appointment on compassionate grounds has filed this Original Application seeking the following reliefs:

- i. Call for records leading to A-2 and consider the same.
 - ii. Issue a direction directing the respondents to appoint the applicant in LPSC/ISRO on compassionate grounds.
 - iii. Award any other reliefs this Hon'ble Tribunal deems fit to grant.
2. According to the applicant, he made a representation to the respondents for appointment in LPSC/ISRO on compassionate grounds due to the death of his mother Smt. Thresiamma Joseph



on 21.12.1985. According to him, he was six years old at the time of death of his mother and his father was working in a private firm drawing a salary of Rs. 650/- per month. He claimed that through borrowed funds, his father managed to give proper education to him and after passing 10th standard and pre-degree he got admission for the Bachelors Degree in Electronics and his examinations were over on 20th June, 2000. His father remarried applicant's mother's sister in 1987. According to him, he could not look forward to his father for his livelihood or for continuing his education. Applicant did not have a house of his own. Applicant's father had two children. Applicant's grandmother was 75 years old and had been looked after by his late mother. According to the applicant, he moved a representation before the respondents by A-1 letter dated 1st August, 1999. By A-2 letter dated 4.10.99, his request was rejected. According to him, A-2 was issued without application of mind to the contents of A-1 representation.


3. Respondents filed reply statement resisting the claim of the applicant. According to them, the Scheme of compassionate appointment was intended to give immediate assistance to the family of the deceased Government servant to relieve it from economic distress. The very fact that the family was able to manage 15 years was an adequate proof that the family had some dependable means of subsistence. The contention of the applicant that he was in financial distress was, therefore, untenable and hence liable to be rejected. A-1 representation was considered in the light of the Rules in



vogue and various rulings of the Apex Court. A-2 was issued when the case of the applicant was found to be unfit for appointment on compassionate grounds. No case had been made out for interference by this Tribunal. The Original Application was liable to be dismissed.

4. Heard the learned counsel for the parties. Learned counsel for the applicant vehemently argued that A-2 was issued without application of mind. Learned counsel for the respondents reiterated the points brought out in the reply statement and submitted that the applicant's father could have applied for appointment on compassionate grounds when Smt. Thresiamma Joseph died in 1985. The very fact that he did not apply would show that the family was not in distress, which is a condition precedent for grant of employment on compassionate grounds. Learned counsel for the respondents cited the judgement of the Hon'ble Supreme Court in Union of India and Ors. Vs. Bhagwan Singh [1996 (1) LLJ 1127] in support of her submissions. Reference to para 8 of the O.M. No.14014/6/94-Estt.(D) dated 9th October, 1998 was also made and it was submitted that even though belated applications for compassionate appointments could be considered, in this case the death had occurred much more earlier than 5 years specified in para 8 i.e. 14 years ago.

5. I have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have perused the documents brought on record. I find that in A-1 representation dated 1.8.99 requesting for



compassionate appointment, the the applicant has stated as follows:

"I may be permitted to submit the following facts for your kind consideration and favuorable orders.

I am the unfortunate son of Smt. Thresiamma Joseph who died in a motor accident on 21.12.1985 while employed in ISRO Valiamala Unit, Trivandrum as an O.C.B. leaving behind me and my father. At that time I was 6 years old. Now I am aged 20. I passed my 10th class with 77% marks and Pre-Degree with 65% marks. At present, I am studying for my Bachelors Degree in Electronics at the University Institute of Technology, Trivandrum.

With the sudden demise of my mother, I and my father were put to much hardship and we are struggling a lot to manage the affairs of my family, and my studies. Due to financial difficulties, I am afraid I may not be able to complete my studies.

Considering my future and family, I have no other way except to request your kind intervention to provide me a job in LPSC/ISRO. I request your goodself to intervene and help me with appropriate orders for my appointment.

If I am given a chance, I shall discharge my duties to the entire satisfaction of my superiors.

Thanking you,


Yours faithfully,

Sd/-

Jimmy Philip

Thiruvananthapuram
1st August 1999"

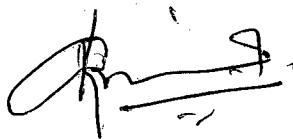
6. It is evident from paras 3 & 4 of the representation reproduced above that the reasons for the request for appointment on compassionate grounds are that he and his father had been put to much hardship, they were struggling a lot to manage the affairs of his family and his studies, and due to financial difficulties, he may not be able to complete his studies and considering his future. In A-2 impugned reply given to him it has been stated that his case had been examined



by the office of the respondents and the competent authority had not considered his case for appointment on compassionate grounds as per the Scheme for appointment on compassionate grounds. The object of the Scheme for appointment on compassionate grounds is stated in para I of the enclosure to O.M.No.14014/6/94-Estt(D) dated 9th October, 1998 produced by the learned counsel for the respondents. The said Para I reads as under:

"Object: The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency."

7. When the case of the applicant in this OA is examined with reference to the above object in the light of what is brought out by the applicant in the OA as well as the A-1 representation, I find that the applicant's case cannot be brought under the Object as laid down in the Scheme reproduced above. It is an undisputed fact that the applicant's father was employed when his mother passed away in 1985. If the family was in distress condition, the father could have approached the respondents for appointment on compassionate grounds. The very fact that he did not approach would indicate that he was better off working in a private firm rather than seeking government employment. Moreover, by the applicant's own admission, it would appear that the applicant's father was able to educate his son up to Bachelor of Engineering. Even in the representation made for appointment on compassionate grounds, the reason stated for seeking compassionate appointment is in consideration of his future and not of



distress in family . These are not the object for which the Scheme for appointment on compassionate grounds is framed by the Government of India. Further, Hon'ble Supreme Court has accepted the Scheme for appointment on compassionate grounds making an exception to the general rule for appointment in public service on the basis of open invitation on merits only because the Scheme is meant to provide immediate financial assistance to the family of the Government servants who die in harness, when there is no other earning member in the family. The Hon'ble Supreme Court in para 7 of the case cited by the learned counsel for the respondents held as follows:

"7. The above decision was followed in Phoolwati v. Union of India 1991 AIR SC 469. The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family. Matters which should be considered while giving an appointment in public services on compassionate grounds have been laid down by a Bench of this Court in Umesh Kumar Nagpal v. State of Haryana (1995-I-LLJ-798) to the following effect: at para 2, p. 799 -

"As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible.

Neither the Governments or the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case there are some exceptions carved out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less



a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family....."

It is settled law, that even if the Court reaches the conclusion that the applicant has made out a case, all that the High Court or Administrative Tribunal can do, is only to direct the authority concerned to consider the claim of the applicant in accordance with relevant law or rules, if any. (See State of Haryana V. Naresh Kumar Bali) (1995-II-LLJ-108).

8. When I examine A-2 reply given to the applicant on the basis of the dictum laid down by the Hon'ble Supreme Court, his A-1 representation, both as reproduced above, as well as the facts and circumstances as revealed from the OA, I do not find any merit in the reliefs sought for in this Original Application and it cannot be held that the respondents have rejected the claim of the applicant for appointment on compassionate grounds without application of mind and outside the object of the Scheme.

9. In the facts and circumstances of the case, I do not find any merit in this Original Application.

10. Accordingly I dismiss this OA with no order as to costs.

Dated 1st january, 2002.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

A P P E N D I X

Applicant's Annexures:

1. Annexure A-1 : True copy of the representation dated 1.8.1999 filed before the 1st respondent.
2. Annexure A-2 : True copy of letter dated 4.10.1999 No.15/1(3)/99.

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