

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 69/94

Thursday, this the 3rd day of March, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI PV VENKATAKRISHNAN, MEMBER (A)

G.V.Nandan, House No.TCL/414,
Changanara House, Kalady,
Karamana PO, Trivandrum-2. .. Applicant

By Advocate Shri S. James Vincent.

V/s

1. Union of India, rep. by the Secretary, Min. of Urban Development, New Delhi.
2. The Chief engineer, CPWD, Madras-6.
3. The Superintending Engineer, Madras Central Elect. Circle, CPWD, Madras-6.
4. The Senior Labour Officer, Central Circle, CPWD, Sastri Bhavan, Madras-6.
5. The Ex. Engineer (Electrical), Trivandrum Central Elect. Divn., CPWD, Trivandrum-10. .. Respondents

By Advocate Shri K.Karthikeya Panicker, ACGSC.

ORDER

N. DHARMADAN

Applicant is the son of late Gopalakrishna Panicker. He is coming for the second time with the prayer for issuing a direction to the 2nd respondent to grant him compassionate appointment considering the indigent circumstance of the family. Earlier when he filed OA 173/93, it was disposed of directing the respondents to consider the representation of the applicant. Pursuant to the direction, the impugned order, Annexure-A8, dated 8.11.93 with the covering letter, Annexure-A7, dated 2.1.93 was issued. They are challenged in this case. According to

the applicant, no valid reason for denying the claim of the applicant has been stated, except of course a vague statement that the family is not found to be in indigent circumstances.

2. Applicant's father died on 9.2.86 in harness leaving behind his mother and a sister. According to the applicant even though his mother was employed at the time of death of his father, she retired from service on 30.4.91 and the family cannot be maintained without compassionate appointment. Applicant pointed out a number of comparable cases in which the respondents have granted compassionate appointments without following a uniform procedure for granting compassionate appointment. According to the applicant, the respondents are granting compassionate appointments indiscriminately on extraneous consideration without following any principle or criteria. The learned counsel for the applicant cited before us a decision of the Supreme Court reported in Smt. Kamala Gaind vs. State of Punjab and others, 1990 SCC Suppl. 800, and submitted that the Supreme Court has condemned the grant of compassionate appointments without following a uniform formula or principle, adopting a policy of "pick and choose".

3. The applicant's father died in harness in 1986, after serving about 28 years. He was due to retire in 1995. Applicant completed 18 years on 5.1.91 and he is now studying ~~for~~ B.Com. The family is in acute financial strain. The meagre retiral benefits received by the family has been spent for the marriage of the sister. His mother is now seriously ill and the present income received by the family is hardly sufficient for meeting the medical expenses. According to the applicant, the statement that the family is not in indigent circumstances is against the true state of affairs.

4. Applicant has cited some instances of comparable cases to show that respondents are not following any uniform yardstick or criteria for granting compassionate appointments. In those cases appointments were given on compassionate considerations notwithstanding the family possessed landed properties, buildings and other tangible assets denoting that the family was not indigent at the relevant time. If compassionate appointments can be granted to the cases referred to in the application, there is no valid reason for denying the benefit of compassionate appointment to the applicant particularly when the family of the applicant, according to him, is in indigent circumstance having no means to sustain the family. The ~~meagre~~ amount received by the family as retiral benefits is not sufficient to maintain the family.

5. Since the respondents have not considered the representation in the proper perspective in the light of the earlier direction by the Tribunal, we are of the view that the applicant's claim requires a fresh consideration by the competent authority in the light of the comparable cases pointed out by him and the decision of the Supreme Court referred to above. The relevant portion is extracted below:-

"..... Appellant's son, a graduate (by now a Law Graduate) was offered Class II State Service on the executive side while in similar situations dependants of public servants killed by terrorists have been given Class I post. Two instances have been cited, one being the case of an Executive Officer and the other of a Judicial Officer. in both the cases Class I jobs have been provided. Respondents have failed to indicate any justification for such discrimination. Even if it is compassion, unless there be some basis there is no justification for discriminatingly extending the treatment. We, therefore, direct that within three months from now a suitable Class I post in P.C.S. Executive shall be provided to the applicant's son in lieu of the offer already made."

(1990 Suppl. SCC 800)

..... 4/-

6. Accordingly, having regard to the facts and circumstances of the case, we set aside the impugned orders, Annexures-A7 and A8 and send back the case to the second respondent for a fresh reconsideration of the grievance of the applicant. The applicant may file a representation before him within four weeks from the date of receipt of a copy of this order giving details of the comparable cases relied on by him to sustain the plea of discrimination and indiscriminate grant of compassionate appointment without following any uniform principles or criteria so as to enable the second respondent to consider the matter afresh bearing in mind the above observations and law laid down by the Supreme Court. If the second respondent receives the same, he shall reconsider the claim and pass appropriate orders in accordance with law within a period of four months from the date of receipt of the representation referred to above.

7. The application is disposed of as above. There will be no order as to costs.


P. Venkatakrishnan

(P. VENKATAKRISHNAN)
MEMBER(A)


N. Dharmadhan
3.3.94

(N. DHARMADAN)
MEMBER(J)