

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No. 89 /2005

Wednesday, this the 10th day of August, 2005.

CORAM :

HON'BLE Mr.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Pretty David
D/o Late M.N.David George
Primitty Dale, K.V.57,
Kalavihar Nagar, Kuhnuuzhi, P.O
Thiruvananthapuram : Applicant

(By Advocate Mr. Liji J.Vadakkedom & D.Kishore)

Versus

1. Union of India represented by its
Secretary. Department of Space
Anthareeksha Bhawan
Bangalore
2. The Controller
Liquid Propulsion Systems Centre (L.P.S.C)
Department of Space, Government of India
Valiamala P.O, Thiruvananthapuram – 695 547
3. The Assistant Administrative Officer
Liquid Propulsion Systems Centre
Department of Space, Government of India
Valiamala P.O, Thiruvananthapuram – 695 547 : Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC (R1-3))

The application having been heard on 10.08.2005, the Tribunal on the same day delivered the following :

ORDER (ORAL)

HON'BLE Mr. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant's father died on 27.05.1998, while working as Tradesman 'D' in the Office of the 2nd respondent. The applicant sought employment on compassionate appointment which was initially rejected had filed OA 616/03 and the same was allowed. Respondents thereafter, recommended the applicant for compassionate appointment. Since there was no vacancies available, her request cannot be considered. In the O.A it is alleged that as per Scheme for compassionate appointment, a person selected for appointment on compassionate appointment should be adjusted in the

recruitment roster /waiting list to be appointed as and when vacancy arises. The employment under the Scheme is not confined to that particular Department/Ministry. Respondents are bound to see whether there are vacancies under any other department in Government of India to accommodate the applicant. The summary rejection of claim of applicant on the ground that there are no vacancies is unjust and the applicant has filed this O.A seeking the following reliefs :

Call for the records leading to the passing of Annexure A-8 and quash the same to the extent it rejects the claim of the applicant for employment on compassionate grounds due to non availability of vacancy.

To direct the respondents 2 and 3 to include the applicant in the waiting list/recruitment roster against Group 'D' category as stipulated in Clause 7 (b) of Annexure A-9 and appoint her as and when vacancy meant for the purpose of compassionate appointment arises.

To direct the 2nd respondent to consider Annexure A-10 and take appropriate action as contemplated in Clause 7 (e) & (f) of Annexure A-9 forthwith.

Any further relief or order which this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

2. Respondents had filed a detailed reply statement contending that a Committee was constituted to consider all pending cases of compassionate appointment on 26.05.2003 including the applicant. The Committee did not find the case of the applicant for consideration. But, this was challenged before this Tribunal by filing OA 616/03 and vide order dated 13.04.2004, this Court had directed the respondents to consider the case of the applicant. The operative portion of the order is reproduced as under :-

“ In the circumstances, I am of the view that a proper assessment with reference to the liabilities of the applicant has not been evaluated by the Committee and Annexure A-9 as afar as the applicant is concerned is at fault. In view of the legal position discussed above, I am of the view that the applicant's case requires reconsideration by the competent authority. Therefore, I set aside Annexure A-9 to the extent that affects the applicant and direct the 2nd respondent to consider the applicant's case afresh and grant the benefits to the applicant is she is otherwise eligible. This exercise shall be done within a time frame of four months from date of receipt of a copy of this order. The applicant is directed to send a copy of the O.A order and other documents, if any, forthwith to the 3rd respondent so that further delay can be avoided. No order as to costs. ”

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3. Again the claim of the applicant was rejected on the ground that there was no vacancy. The applicant had filed a rejoinder and the respondents had filed an additional reply statement.

4. Mr.Liji J Vadakkedom appeared for the applicant and Mr.T.P.M.Ibrahim Khan, SCGSC appeared for the respondents.

5. The learned counsel for applicant has taken my attention at page 4 of the Scheme for compassionate appointment (Annexure A-9) dated 09.10.1998 with special reference to the vacancy position is reproduced as under :

Determination/availability of vacancies :

Compassionate appointments can be done upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled up by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category viz., SC/ST/OBC/general depending upon the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.

While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant on casual/daily wage/adhoc/contract basis against regular vacancies, there is no bar to considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments.

The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.

Employment under the scheme is not confined to the Ministry/Department/Office in which deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.

If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department/Office to take up the matter with other Ministries/Departments/Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list. “

6. The learned counsel for respondents in Para 5 of their additional reply statement has stated as follows :-

“ Regarding the averments contained in Paragraph 5 of the rejoinder, it is submitted that in the first paragraph of Annexure A-8 of the above Original Application, it has been mentioned that in terms of instructions contained in O.M.No.14014/19/2002-Estt (D) dated 05.05.2003 of the Department of Personnel and Training, the maximum period of candidate's name can be kept under consideration for offering compassionate appointment will be three years. In consonance with this stipulation, the case of the applicant will be reviewed by the relevant committee towards the end of first year and if the committee certifies the previous condition of the applicant, her name will be kept under consideration for another year.”

7. Learned counsel for the parties submitted that the respondents had undertaken that the applicant's name will be kept under consideration for another year and the O.A can be disposed of considering the applicant for the same as averred in the reply statement. The counsel for the applicant did not agree for keeping her name for one year and submitted it should be three years. As per the O.M cited supra I am of the view that it could be kept for three years.

8. In the conspectus of facts and circumstances, this Court direct the respondents to consider the name of the applicant for compassionate appointment by the relevant committee for the next three consecutive years commencing from the end of this year and appoint her in the next available vacancy in accordance with the rules.

9. The O.A is disposed of as above No order as to costs.

Dated, th 10th August, 2005.



K.V.SACHIDANANDAN
JUDICIAL MEMBER