

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 92 of
T.A. No. 1991

DATE OF DECISION 15-7-1991

Kum.PK Asha

Applicant (s)

Mr K Karthikeya Panicker Advocate for the Applicant (s)

Versus

Union of India & 2 others

Respondent (s)

Mr AA Abul Hassan, ACGSC

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

AV Haridasan, Judicial Member

The applicant Kum.PK Asha has challenged the order

dated 5.6.1989, 2.3.1990 and 2.4.1990 of the third respondent
wherein the requests for giving employment assistance to her on
compassionate ground was rejected.

2. The ~~xxx~~ facts of the case can be briefly stated as
follows. The applicant is daughter of late Shri PA Kuraman
who had to retire from the service of the third respondent
on invalid pension under Rule 38 of the CCS(Pension) Rules,
since
1972 on 1.6.1985 ~~1~~ due to constant illness, he became physi-
cally incapacitated. The basic pension allowed to him on such

retirement was only Rs.330/- per month. The applicant's mother is working as a Class-IV employee in the Naval Department. Shri Kumaran died leaving behind the applicant, her mother and her younger brother. The family is living in a house situated on 8 cents of land belonging to Mrs Kumaran and her 5 brothers. They do not have any other properties. Immediately on his retirement, Shri Kumaran made a request to the third respondent for employment assistance to the applicant on compassionate grounds. This representation was forwarded by the third respondent to the higher authorities with favourable recommendation. The applicant was directed to appear for an interview and to produce her testimonials. She appeared at the interview and submitted ^{her} willingness to accept any job. But to the disappointment of the applicant and her father, the representation was replied ^{to with} the impugned order at Annexure-A4 dated 5.6.1989 informing Shri Kumaran that the case for employment assistance to the applicant had not been approved by the competent authority. The applicant's father made a further representation to the third respondent on 30.6.1989 stating that in similar circumstances, compassionate appointment had been offered to one Kum. Geetha and requesting that the case of his daughter may be reconsidered, in accordance with law. This representation was also turned down by letter dated 1.8.1989 of the third respondent stating that considering the financial position of the family and the limited scope for compassionate appointment, the request could not be

acceded to. The applicant's father made a further representation on 10.8.1989 which did not ^{evince} ~~evince~~ any response. While so, Shri Kumaran died after prolonged and expensive medical treatment on 4.12.1989. On 18.1.1990, the applicant made a representation to the third respondent narrating the indigent circumstance of the family and claiming employment assistance.

This representation was replied ^{to} ~~by~~ Annexure-A9 order dated 2.3.1990 stating that her request could ^{not} ~~not~~ be acceded to.

Aggrieved by this communication, the applicant made a further representation on 14.3.1990. The applicant has been told by the final order dated 2.4.1990 that considering her financial ^Q xxxx position and the limited vacancies available for compassionate appointment, it was not possible to extend ^Q employment assistance to her. Dissatisfied with this order and believing that her case for compassionate appointment has not been considered properly, the applicant has filed this application under Section 19 of the Administrative Tribunals Act, praying that the impugned orders may be quashed and that the respondents may be directed to give her an employment on compassionate grounds. It has been averred in the application that with the meagre salary of her mother, a Class-IV employee and the low family pension, the family is not able to get on as considerable amount had to be spent for the treatment of ^{the} applicant's father. It has been further averred that the fact that there is another earning member in the family is not a bar for extending employment assistance, especially, when the family is highly indebted

and that in the case of one Ku. Geetha, employment assistance had been extended to her though her mother was better employed than the applicant's mother. The applicant has thus averred that proper consideration has not been given to the facts and circumstances on which her claim for compassionate appointment was based.

3. The respondents in the reply statement have stated that a sum of Rs.24,175/- was received by Shri Kumaran as gratuity, commuted value of pension, GP Fund and insurance, that he was granted a pension of Rs.282/- which was revised to Rs.375/- plus allowance w.e.f. 1.1.1986, that in addition to that the widow of Shri Kumaran is getting a total emoluments of Rs.1526/- as a last grade employee and that considering all these, the family cannot be considered to be in such an indigent circumstance so as to deserve employment assistance, especially, when the vacancies available for accommodating dependents of persons dying in harness is very much limited. The grant of compassionate appointment to Kum. Geetha mentioned in the application has been justified on the ground that in the peculiar circumstances of the family it was felt that without such assistance, it would not be possible for the said family to get on as the number of dependents were 3 of whom 2 were studying in different places. They have contended that there is no basis for the averment of discrimination in the application.

4. We have heard the arguments of the learned counsel on either side and have also perused the pleadings and documents

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on record. The full text of the Ministry of Personnel, Public Grievances and Pension(Dept. of Personnel & Trg.) OM No.14014/6/86-Estt(D) dated 30.6.1987 has been produced by the respondents as Annexure-R-I(A). In Clause (e) of paragraph-4 of this OM, it is stated as follows:

"In deserving cases even where there is an earning member in the family, son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support to the other member of the family."

Going by this instruction, even if there is an earning member in the family if the competent authority is satisfied that the family is still in indigent circumstances, considering the number of dependents, the income of the earning member, and the assets and liabilities of the family, a compassionate appointment can be given to son/daughter or near relative of the deceased Government servant. The case of the applicant has been considered by the competent authority in the light of the above instruction and having found that the family had come to possess a sum of Rs.24,175/- in a lumpand in addition to the family pension of Rs.375/- the mother of the applicant is getting a salary of Rs.1526/- per month and that the only dependents are the applicant and her younger brother, the competent authority has decided that in comparison with other cases, the applicant's family cannot be considered to



be in a highly indigent circumstance deserving employment assistance. The learned counsel for the applicant produced for our perusal the pay particulars of the applicant's mother wherein though her total emolument is shown as Rs.1562/-, after deductions towards Provident Fund, refund of Provident Fund loan recovery, towards Credit Society etc. the take home salary is only Rs.669/-. Inviting attention to this document, the learned counsel argued that with this meagre sum of Rs.669/- in this age of inflation, it is not possible for a family of 3 people to make both ends meet. But the huge deductions from the salary of the mother of the applicant is as observed by the second respondent in his letter dated 20.7.1989 at Annexure-R-I(C) only a temporary phase. Further, in addition to the salary of the mother of the applicant, the family of deceased Kumaran is getting a family pension. They had also come to possess an amount of Rs.24,175/- immediately on retirement of Shri Kumaran. As the dependents of deceased Kumaran are only the applicant and her younger brother, we are of the view that the decision taken by the competent authority that there is no extreme hardship or indigence in the case of the family to deserve employment assistance to the applicant is fully justified. Therefore we do not find any arbitrariness in the impugned orders at Annexure-A4, A9 and A-11.

4. In view of the facts and circumstances discussed above, we do not find any merit in the application and therefore dismiss the same, without any order as to costs.

(AV HARIDASAN)
JUDICIAL MEMBER

trs

15-7-1991

S.M./15-7-91
(SP MUKERJI)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 92 of
1991

DATE OF DECISION 15-7-1991

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3. The respondents in the reply statement have stated that a sum of Rs.24,175/- was received by Shri Kumaran as gratuity, commuted value of pension, GP Fund and insurance, that he was granted a pension of Rs.282/- which was revised to Rs.375/- plus allowance w.e.f. 1.1.1986, that in addition to that the widow of Shri Kumaran is getting a total emoluments of Rs.1526/- as a last grade employee and that considering all these, the family cannot be considered to be in such an indigent circumstance so as to deserve employment assistance, especially, when the vacancies available for accommodating dependents of persons dying in harness is very much limited. The grant of compassionate appointment to Kum. Geetha mentioned in the application has been justified on the ground that in the peculiar circumstances of the family it was felt that without such assistance, it would not be possible for the said family to get on as the number of dependents were 3 of whom 2 were studying in different places. They have contended that there is no basis for the averment of discrimination in the application.

4. We have heard the arguments of the learned counsel on either side and have also perused the pleadings and documents

on record. The full text of the Ministry of Personnel, Public Grievances and Pension (Dept. of Personnel & Trg.) OM No.14014/6/86-Estt(D) dated 30.6.1987 has been produced by the respondents as Annexure-R-I(A). In Clause (a) of paragraph-4 of this OM, it is stated as follows:

"In deserving cases even where there is an earning member in the family, son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support to the other member of the family."

Going by this instruction, even if there is an earning member in the family if the competent authority is satisfied that the family is still in indigent circumstances, considering the number of dependents, the income of the earning member, and the assets and liabilities of the family, a compassionate appointment can be given to son/daughter or near relative of the deceased Government servant. The case of the applicant has been considered by the competent authority in the light of the above instruction and having found that the family had come to possess a sum of Rs.24,175/- in a lump and in addition to the family pension of Rs.375/- the mother of the applicant is getting a salary of Rs.1526/- per month and that the only dependents are the applicant and her younger brother, the competent authority has decided that in comparison with other cases, the applicant's family cannot be considered to

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4. In view of the facts and circumstances discussed above, we do not find any merit in the application and therefore dismiss the same. without any order as to costs.

(AV HARIKASAN)
JUDICIAL MEMBER

15/11/1991

(SP MUKERJI)
VICE CHAIRMAN

trs

15-7-1991

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A. 47/91 in

O. A. No. 92

XXXXXX

1991

DATE OF DECISION 10.2.1992

Smt. P.K. Asha

Applicant (s)

Shri Karthikeya Panicker

Advocate for the Applicant

Versus

Union of India--Secretary

Respondent (s)

Defence and others

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. Mukerji - Vice Chairman

The Hon'ble Mr. A.V. Haridasan - Judicial Member

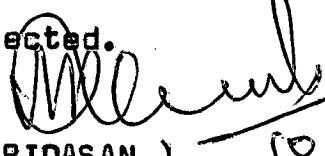
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JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

In the order sought to be reviewed, we had held that the competent authority had taken a decision and that we did not find any reason to interfere with the above decision. Now, the applicant has filed a review application with a new case that the competent authority is the Union of India and the Union of India has not taken any decision. If the applicant has got a case that our decision that the authority which has passed the order was the competent authority, is not

correct, the remedy open to the applicant is to file an SLP before the Hon'ble Supreme Court challenging our decision. A review on that ground is not warranted. Therefore, this review application has no merit and the same is rejected.


(A.V. HARIDASAN)
JUDICIAL MEMBER

10/2/92


(S.P. MUKERJI)
VICE CHAIRMAN

10.2.92