

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 1/90
T. A. No.

499

DATE OF DECISION 8.8.91

S.V. Sreelatha

Applicant (s)

Mr. S. Subramani

Advocate for the Applicant (s)

Versus

The Secretary, UOI, Deptt. of Space and another. Respondent (s)

Mrs. N.N. Sugunapalan, SCGSC

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan

Administrative Member

The Hon'ble Mr. N Dharmadan

Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

SHRI N DHARMADAN, JUDICIAL MEMBER

The applicant is aggrieved by the refusal of the second respondent to appoint her in Group 'D' post on the basis of the assurance already given to the evicted families for giving employment under the VSSC.

2. The applicant is an inhabitant of Attipara village and is aged 28 years. Her father Sukumaran was evicted from the land comprised in Sy.No. 2763/2 A (88.23 Ares) with the building situated therein. While acquiring the said land for the extension of ISRO at Thumba alongwith other neighbouring lands an agreement was entered into between

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the authorities of ISRO and the representatives of the ~~evicted~~ families who were evicted from the respective lands for the grant of special consideration and priorities for the grant of employment in/ ^{I.S.R.O.} to one member from each of the evicted families ~~on proof of the status.~~ According to the applicant she submitted Annexure A-1 representation dated 8.5.84 for getting employment based on the Registration No. W/21479/80 and Annexure 3 certificate. She passed B.Sc Degree and M.A. in Sociology. Further representation was also submitted on 17.10.85. The applicant received Annexure 5 communication from the Administrative officer informing her that her case will be considered for Group 'D' post along with others if she intimates her willingness before 15.10.86. She submitted Annexure -2 representation ~~for the same purpose~~ on 11.8.86 to the Chairman for considering her case sympathetically and appointing her in one of the vacancies. In that application she has stated that she had applied for getting appointment when she was only 23 years and she was within the age limit at the time of registering

and
her name /submitting application. She completed
26 years only in May, 1986. She received Annexure-5
letter dated 7.10.86 intimating her that she is not
satisfying age requirements as per norms for a
clerical post, but when vacancies arise in any
group 'D' post in the Centre her case will be conside-
red alongwith other evicted candidates. Thereafter
she received Annexure-6 impugned order which reads
as follows:

"With reference to the interview you
had with the selection committee on
12.4.1989 for the post of Attendant 'A'/
Canteen Boy 'A'/Safaiwala 'A', while
appreciating your interest in this
assignment, we write this to inform
you that you have not been selected
for appointment to the above post.

Please note that no further commu-
nication in this matter will be
entertained."

3. The applicant is challenging this order
and prays for a direction that she should be
allowed to join in one of the posts in Group 'D'
which is vacant in the office of the second respondent.

4. The respondents have filed a detailed
counter affidavit in which they have admitted ^{that} ~~one~~
member from each evicted family belonging to
any of the three generations is eligible for
appointment on the basis of evictee status as
referred to in Annexure R-1 minutes. The

relevant portion in the minutes is extracted for

reference:

"Chairman I.S.R.O. clarified that special consideration can be given only in case of evicted persons, including their descendents falling within 3 generations only, and not to others. The Assn. representatives suggested a certain percentage of reservations of job and guarantee of employment for some categories of personnel. They stated that public sector undertakings normally give such privileges and quoted the instance of Titanium Factory. Chairman ISRO stated that ours is not a public sector organisation but a research and development establishment. We cannot agree to any reservation or guarantee of employment but as already agreed, we would give preference to qualified candidates in the case of only evicted persons. The procedure to be adopted in such cases was clarified and it was agreed that a list of evicted personnel duly certified by the Executive Officer of the Panchayat Board would be furnished to ISRO to enable them to give special consideration for such applicants during recruitment."

4. The applicant is an educated girl having passed B.Sc. Degree in Second Class and M.A. Degree in Sociology. She approached respondents as early as on 8.5.84 (Annexure-I) with registration denoting that her father, Shri K. Sukumaran was an evicted ^{person} from the land comprised in Sy.No. 2783/2A (88.23 Ares) for the expansion of ISRO at Thumba. under L.A. case No. 17/86. She has got employment Exchange Registration No. W/21479/80. She also produced Annexure -3 certificate from the Revenue Inspector. proving her eligibility for appointment in ISRO on the basis of evictee status. But, the respondents appear to have taken some time for verification of the details and

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in 1986, she became over-aged for clerical post. Accordingly, she was informed as per Annexure-5 that on 7.10.86 she does not satisfy the requirement of age as per the norms for any post in the clerical cadre. There is no fault on the part of the applicant. She was within the age limit in 1984 when she originally applied for the post. But later she became over-aged for clerical cadre in 1986 and the respondents assured her that her case would be considered for any Group 'D' post alongwith others.

5. It is clear from her representations Annexure 1 & 2 submitted in 1984 and 1986 that she made the request for getting appointment on compassionate ground considering the evictee status in 1984 itself when posts were available to accommodate her in the VSSC. At the time she was only 23 years old. But her claim was not considered. It was presumably based on some suspicion about the genuineness of the eviction certificate produced by her/ ^{that} necessary enquiry was conducted through the District Collector, Trivandrum which took some time and two interviews

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were conducted in the meantime in which the applicant's case was not considered. The respondents could have interviewed the applicant also in these interviews subject to verification of the documents.

The failure to include her in the interview deprived her chance to get a selection in clerical cadre.

Finally the applicant was interviewed as indicated in the impugned order only on 12.4.89 for the post of Attendant(A) in which she was not selected because of over-age. There is no valid explanation for this long delay. Her requisitions 1984 and 1986 are pending. As indicated above the applicant is at no fault for she has made her claim even in 1984 when she was within the age limit but she was not interviewed alongwith others. The explanation given for the refusal to interview her for clerical cadre cannot be appreciated. The applicant is waiting for an appointment with evictee status in VSSC from 1984. She approached for the job with all qualifications for a clerical cadre in 1984 at the age of 23. She completed 26 years only in May, 1986. If the respondents were willing to consider her case for the clerical cadre they could have expedited the verification and interviewed her ^{in the} first interview itself.

But the verification was unduly delayed. It is unbelievable that the respondents took about two years to verify the details furnished by the applicant from the Trivandrum Collectorate:

6. Considering the hardship in this case we have passed an order on 5.4.91 taking the view that if the present applicant is to be rejected for Group 'D' post on the ground that she does not satisfy the age qualification for that post the next generation will only get this opportunity after a period of 25 years and this will be a impracticable proposition. Hence, we have passed the following order on 5.4.91.

" The matter is part heard again.

Our attention was drawn by the respondent's counsel to the fact that the applicant has already been considered once and rejected as he was not found suitable. It is submitted in para 6 of the reply that as and when further vacancy arises in Group 'D' post after the expiry of the existing panel drawn in April, 1989 he will be considered again along with other affected persons. We are of the view that this is purely an empty assurance and has no meaning because in para 5 of the Annexure R-1 it is stated that the evictees' dependents for three generations will be given special consideration but only if they have acceptable qualification. As there is specification on age for Group 'D' post and as the applicant has already been told once in Annexure-5 that she does not stand the requirement of age for a post of Clerical cadre, there is no guarantee that similar stand will not be taken for Group 'D' post also.

We are of the view that if the present application is rejected for Group 'D' post also on the ground that, she does not satisfy the age

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qualification for a group 'D' post; the next generation will get this opportunity after about 25 years or so. We are of the view that this is an impractical proposition and therefore, prima facie, we are satisfied that such an appointment should be treated as a compassionate appointment and granted by relaxing the eligibility conditions, wherever necessary. The counsel for the respondents is directed to make statement on this behalf. Call on 26.4.91.

A copy of the order be given to counsel for the respondents today itself."


7. Accordingly, the respondents have filed a statement reiterating their earlier stand. They did not answer our doubts. They have contended that 800 evicted families have registered their names for employment in VSSC under the evicted status. Out of the 800 only 164 candidates alongwith the applicant were invited for interview during 1989 and only 18 candidates were selected for appointment and rejected the claim of 146 candidates. Hence, it is not possible to select all candidates who are called for interview. The evicted candidates who were not able to get employment in the first interview shall be called for in the next interview and their cases will be considered in that interview. But the case of the applicant requires special consideration in view of the fact that she applied for the post in 1984, but she was not interviewed in two of the interviews held when she was within the age requirement

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for the clerical cadre. Now, she is satisfied even if she is considered for a group 'D' post.

8. In the facts and circumstances of this case the applicant's case appears to have been rejected on the ground that the applicant has not satisfied the requirement for the selection to the post of group 'D'. Having considered the case in detail we are of the view that the applicant's case deserves consideration by the respondents in relaxation of the rules, particularly when she has established a prima-facie case for granting relief.

9. In the result we dispose of this application in the interest of justice with the direction to the respondents to consider the ^{claim} ~~case~~ of the applicant for a posting in group 'D' post in relaxation of rules imposing restrictions regarding age in the next arising vacancy. The application is disposed of as above. There will be no order as to costs.


(N Dharmadan)
Judicial Member

8.8.91


(NV Krishnan)
Administrative Member

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