

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 28.7.93

O.A. 109/93

S. Ajitha
Ozhokupara, Thekkumkara
Uriacode Post, Vellanadu
Thiruvananthapuram Dist.

Applicant

Vs.

1. Union of India represented by
its Secretary, Ministry of
Telecommunication, New Delhi
2. Chief General Manager,
Telecommunication, Thiruvananthapuram
3. District Manager, Telecom District
Thiruvananthapuram
4. Deputy Director for SC And ST,
Kerala and Lakshadweep,
T.C. 15/968, Meenakshi
Vazhuthacaud Junction,
Thiruvananthapuram

Respondents

Mr. Pirappancode V. Sreedharan Nair.

Advocate for
applicant

Mr. M.V.S. Nampoothiri, ACGSC

Advocate for
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Applicant is one of the daughters of late Sri G. Appukuttan Kani who died in harness on 12.3.90 while working as Line Inspector under the Telephone Exchange, Nedumangad within the jurisdiction of the second respondent. At the time of death of the govt. employee he was survived by his wife and three daughters. The mother of the applicant is employed as Nurse in the Public Health Department. According to applicant there is no other source of income apart from the salary of Rs. 1500/- earned by the mother. Applicant further submitted that only one of the daughters of the deceased employee has been married. The mother has the responsibility of arranging marriage of the applicant and

and her sister. Since no other income ^{from other 4} ~~/sources~~, it is difficult to maintain the family and the applicant belongs to ST community. Accordingly, applicant's mother filed representations for getting a compassionate appointment which was rejected by Annexure-I order stating that after scrutinising the case, the competent authority found the request cannot be entertained under the existing rules. Subsequent requests to various authorities were rejected on the same ground by Annexure-III, IV, VII and IX orders. These orders did not give any satisfactory explanation for rejecting the claim. Applicant also produced Annexure-X ^{issued 6} a letter/after Annexure-IX order rejecting the request for compassionate appointment. The contents of the letter is extracted below:

" Kindly refer to your representation regarding the employment of your daughter S. Ahitha to this department. In this connection your latest salary certificate may be furnished to this office immediately for onward transmission to directorate."

2. Respondents in the reply submitted that the High Power Committee considered the claim of the applicant for compassionate appointment and the Committee found that the mother of the applicant is getting a salary of Rs. 2559/- and hence the family is not in indigent circumstances warranting compassionate appointment to the applicant.

3. Learned counsel for applicant submitted that the mother is to retire from service in March, 1995; except the salary of the mother the family has no other income. The fact that the mother is employed is no ground for rejecting the request for compassionate appointment on the facts of this case particularly when applicant's family has no other income other than the salary, ~~but has~~ heavy burden ~~of~~ maintaining the family ~~with two~~ daughters. According to applicant the family has no other source of income to arrange the marriage of two daughters. Hence compassionate appointment to one of the members is a necessity ^{the} ~~for saving family~~ particularly when the applicant

belongs to ST community.

4. Learned counsel for applicant did not bring to my notice any orders or circulars providing reservation for compassionate appointment as in the case of regular employment for SC/ST community. However, he relied on clause (e) of Appendix-2 of Swamy's Pension Compilation incorporating Central Civil Services Pension Rules, 12th Edition. The said clause is extracted below:

"In deserving cases even where there is an earning member in the family a son/daughter/near relative of the deceased govt. 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 dependants, the assets and liabilities left by the deceased govt. 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 govt. servant and whether he should not be a source of support to the other members of the family."

5. The learned counsel for applicant relying on the above clause submitted that even if one of the members of the family of the deceased govt. employee is an earning person and there is some income that by itself cannot be taken ^{as a} ground for rejection of request of compassionate appointment. In other words, it will not be a bar for consideration of compassionate appointment to ^{any} eligible ~~any~~ other member, if the family is in distress and indigent on account of the death of the govt. employee. The case of the applicant is that in spite of the fact that her mother is getting a monthly salary, the family is indigent, the income is hardly sufficient for maintaining the family and looking after all the affairs of the family including the marriage of two daughters.


6. Admittedly the above clause and the contentions of the applicant ~~was~~ were not considered by the competent authority. According to ~~me~~ me, these are matters which require ^{specific} consideration by the Circle Relaxation Committee while disposing of the representations. The orders passed while disposing of the representations submitted by applicant's mother for getting compassionate appointment are all unsatisfactory and cannot be sustained. *I quash the same. 4*

7. In fact there is no indication in any of the orders challenged by the applicant that the competent authority has considered the above aspects while disposing of the representations. In his latest letter, the Assistant

General Manager asked applicant's mother to submit the latest salary certificate for consideration of the claim of the applicant for compassionate appointment. Therefore, it is presumed that this has been issued for a fresh consideration of applicant's case for compassionate appointment.

8: In the light of the above facts, I am of the view that applicant's claim for compassionate appointment requires a fresh consideration and disposal after proper enquiry about the indigent circumstance of the family. This shall be done within a period of three months from the date of receipt of a copy of this judgment.

9. There shall be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
28.7.93

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List of Annexures

1. Annexure-I: order dated 8.2.91
2. Annexure-II Order dated 25.10.91
3. Annexure-III : Order dated 11.2.92
4. Annexure-IV : Order dated 17.2.92
5. Annexure-V : Order dated 11.3.92
6. Annexure-VI : Order dated 19.10.92