

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.112/2008

FRIDAY...this the*3RD*..... day of*OCT.*... 2008.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

V.S. Seethalakshmi,
D/o late Syamala, Kottapuram,
Paravur P.O., Kollam 691 301.

Applicant

(By Advocate Shri P.R.Milton)

Vs.

1. Union of India, represented by
Secretary to Govt. of India,
Ministry of Communications & IT,
Department of Posts, New Delhi.
2. The Chief Postmaster General,
Office of the Chief Postmaster General (Kerala Circle),
Thiruvananthapuram – 695 033.
3. Senior Superintendent of Post Offices,
Kollam Division, Kollam -691 001. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 17.9.2008,
the Tribunal on *3-10-08* delivered the following.

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant's mother working as a stamp vendor died in 1991 and when the father of the applicant requested the department to 'reserve a post' for his minor daughter, who was 9 years old then. This request was turned down, vide Annexure A-1 order dated 29th March, 1992. The applicant thereafter, on attaining majority requested for compassionate appointment, and the same too was rejected, vide Annexure A-2 order dated 11th October, 2001. Further representation was also rejected by Annexure A-4 order stating that there is no

vested right with any individual for a compassionate appointment. Undaunted by successive rejection, the applicant moved the High Court of Kerala in WP© No. 23421 of 2004 raising certain points relating to the fact that the father of the applicant has remarried and has not been looking after the applicant. The Hon'ble High Court by its order dated 12th August, 2004 disposed of the same as under:-

Petitioner prays for a direction to the second respondent to consider Ext P3 representation in the matter of compassionate appointment. It is seen from Ext. P2 that the same was rejected on the only ground that at the time of death of petitioner's mother petitioner's father was employed and there was no indigent circumstance. It is stated in the writ petition that the father was later remarried and the petitioner and her sister are in great difficulties. These are all matters for the second respondent to consider. There will be a direction to the second respondent to consider Ext. P3 in accordance with law and take appropriate action thereon. Within a period of one month from the date of production of a copy of this judgment along with a copy of the writ petition. Order passed on Ext. P3 shall be communicated to the petitioner

2. Vide order dated 08th October, 2004, the second respondent i.e. the Chief Post Master General had considered and rejected the application citing the rule position.
 3. The applicant has, challenged the above order before the Hon'ble High Court but the High Court held that this is a matter to be agitated before the C.A.T. Hence this O.A.
 4. Respondents have contested the OA. Citing various decisions of the Apex Court they have contended that, compassionate appointment is not a right of any individual and it is to meet only immediate financial distress and in the instant case, the father of the applicant was also a government servant and hence the case was rejected as early as in 1991.
- The applicant is not entitled to any compassionate appointment.



5. In the rejoinder, the applicant submitted that the Hon'ble High Court directed the respondent to consider the application on the basis of the indigency of the applicants family, but the findings of the respondent is that 'There is no provision in the rules to give appointment to wards of deceased Government servants when the other parent is in Government employment.'

6. Counsel for the applicant submitted that the rule on the basis of which the case of the applicant has been rejected has not been uniformly followed inasmuch as one Mr. Sam Rose J who was a dependent of deceased Smt. Ninei John, who died while employed as Branch Postmistress at Mundakkal Post Office in Kollam and whose father too has been an employee of postal department has been given compassionate appointment. The applicant has penned another representation vide Annexure A-9 citing the above but, no reply has been received.

7. Counsel for the respondent submitted that, for the demise of the applicant's mother in 1991, the applicant is seeking employment now, whereas the spirit of compassionate employment is to tide over the immediate financial distress.

8. Arguments were heard and documents perused. The decisions of the Apex Court on compassionate appointment would go to show that there is no vested right with any individual to seek compassionate appointment and the purpose is only to tide over immediate financial distress. This has been consistently followed for a pretty long time. In this

regard, observation of the Apex Court in a recent decision, in A.P. SRTC v. Sarvarunnisa Begum, (2008) 3 SCC 402, as under refers::

In Umesh Kumar Nagpal v. State of Haryana (1994) 4 SCC 138 this Court has held as under: (SCC p. 139a-c, Headnote C)

"The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency.

Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Classes III and IV, is legally impermissible."

9. Thus, the rule applied appears to be correct. What is to be seen is whether there is any hostile discrimination shown to the applicant in that, in the case of Sam Rose under a similar circumstance, where both the deceased and the spouse were employed, yet compassionate appointment has been given. If so, the case of the applicant needs consideration. Here again, even if that rule (i.e. when the other parent is employed in the government, compassionate appointment would not be given) is kept aloof and the case considered, the applicant has to satisfy various norms that are normally prescribed for compassionate appointment.

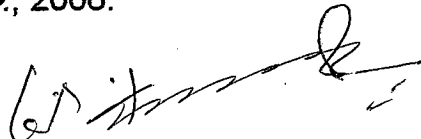
10. In view of the above and the fact that Annexure A-9 representation,

wherein the details of the aforesaid Sam Rose have been given by the applicant have not been considered (nor is there any denial about the same in the counter, in reply to para 4(f) of the O.A. interest of justice would be met, if a direction is given to the respondents to verify as to whether the rule that when both the parents are employed, in the event of the demise of one of them, compassionate appointment is not admissible has been relaxed in the case of Sam Rose and if so, the respondents may consider such a relaxation in the case of the applicant also, as it has been stated that the father of the applicant got remarried and forsaken the applicant. Of course, it is made clear that consideration by the respondents shall be strictly on the basis of the norms prescribed and only the above rule may be relaxed, that too, if what the applicant contends in respect of the appointment of Sam Rose is found to be correct.

11. The case shall be considered on the above lines and decision furnished within a period of four months from the date of communication of this order. OA is disposed of accordingly.

12. Under the circumstances, there shall be no orders as to cost.

Dated the3rd October....., 2008.


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

20.02.2009

GP(JM)

C-11

9 Mr M L George for Mr TPM Ibrahim Khan
SCGSC
Mr P R Milton

MA-144/09 (Extension of time)

This MA is filed for extension of time for implementing the order of this Tribunal dated 3.10.2008. The direction to the respondents was to verify as to whether there was any rule that when both the parents are employed, in the event of the demise of one of them, compassionate appointment is not admissible has been relaxed in the case of Sam Rose and if so, the respondents may consider such a relaxation in the case of the applicant also, as it has been stated that the father of the applicant got remarried and forsaken the applicant. Tribunal has also directed the respondents to consider the case of the applicant. According to the respondents the aforesaid consideration was done by them. after receipt of the aforesaid order of this Tribunal. They have convened the Circle Relaxation Committee(CRC for short) on 4.2.2009 which is the competent authority to consider the applicant's case. The CRC examined the applicant's case but desired to have the latest and up to date information on the marital status of the applicant and various other relevant aspects. According to their submission, the next CRC meeting will be held in the month of March, 2009 and the applicant's case will be considered.

In my considered opinion, the miscellaneous applicant has taken necessary steps in implementing the order of this Tribunal and the extension of time by two months sought for implementation of the order of this Tribunal is justified. I, therefore, allow this MA. It is hoped that the respondents would implement the order of this Tribunal dated 3.10.2008 within the extended period of two months i.e. by 23.2.2009.


GP(JM)

abp

Interim order
issued.
26/2/09