

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 116 of
T. A. No. 1990

DATE OF DECISION 24-6-1991

P Ramesan _____ Applicant (s)

M/s MK Damodaran, CT Ravikumar &
Alexander Thomas _____ Advocate for the Applicant (s)

Versus

Union of India & 2 others _____ Respondent (s)

Mr NN Sugunapalan, SCGSC _____ 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 Mr P Ramesan has filed this application aggrieved by the order dated 25.5.1988 at Annexure-6 of the third respondent rejecting his claim for compassionate appointment and the communication dated 13.4.1989 at Annexure-9 issued by the second respondent to the mother of the applicant stating that the applicant could not be given employment assistance on compassionate grounds and that the matter should be treated as closed.

2. Applicant's father Mr AK Ramunni who had been serving in the Air Force for 32 years as a Lascar died in harness on 15.7.1986, leaving behind his widow and 3 sons including the applicant. The family of Mr Ramunni was left with only

Rs.11,983/- received as gratuity, Rs.12,983/- received as balance of Provident Fund and a monthly family pension of Rs.405/-. As the family found it difficult to pull on with the meagre resources the applicant who is the elder of the sons made an application for compassionate appointment on 20.8.1986. To this application by letter dated 9.4.1987, the applicant was told that his case for employment assistance on compassionate grounds was considered once along with other cases and that owing to the limited vacancies and the large number of applicants on a comparative assessment of financial status, he could not be provided with employment then and that his case would be further considered. Ultimately, the applicant received the Annexure-6 order dated 25.5.1986 by which he was informed that though his case was considered thrice, it was not possible to give him employment assistance as the scope for employment on compassionate grounds was extremely limited. The applicant's mother thereafter submitted a representation to the third respondent with copies to Director of Personnel Services(Civilians), Air Head Quarters, New Delhi, Air Chief Marshal, the Defence Minister and the second respondent. Though pursuant to this representation, the applicant's mother was directed to furnish a proforma regarding employment of dependents of the applicant's father, death certificate, character certificate, certificate from the individual stating that he would support the family if given appointment and no objection certificate from the other children of the deceased and though ^{the} applicant's mother furnished all these as required, the applicant's mother also was later given

a negative reply(Annexure-9) stating that since the scope of employment under compassionate ground is limited, it was not possible to extent assistance to the applicant and that the communication directing her to forward the proforma and the other details was erroneously forwarded without adverting to that the fact, ^{that} ~~✓~~ the case of the applicant had been considered thrice before. The applicant is aggrieved by the rejection of his request for employment assistance. The applicant has therefore filed this application under Section 19 of the Administrative Tribunals Act praying that the respondents may be directed to give him appointment in a Grade'D' post, preferably in any of the offices under the second respondent in Kerala. It is averred in the application that the impugned order at Annexure-6 has been issued without application of mind to the indigent circumstance to which the family of his father was driven to on account of his death because the authorities had not directed the applicant to furnish details about the assets the family possessed.

3. The respondents in the reply statement have contended that as the number of vacancies available for appointment on compassionate ground being very much limited, when the applicant's case was compared with other cases for compassionate appointment on 3 successive occasions as there were more deserving cases, the applicant could not be given appointment on compassionate grounds and that the case of the applicant that there was no application of mind in deciding his case is baseless. To convince ourselves about the genuiness of the case put forth

in the reply statement that the applicant's case has been considered properly, we had directed the learned Senior Central Government Standing Counsel to produce before us the file which would show that the applicant's case was thrice considered. The learned counsel produced the file for our perusal.

4. We have heard the arguments of the learned counsel on either side, ^{and} perused the records including the file containing the proceedings in which the case of the applicant for employment assistance on compassionate ground was considered thrice along with other similar cases. We have very carefully scrutinised the file. We are satisfied that the case of the applicant was considered thrice and ^{that} on all the 3 occasions, the vacancies available for appointment on compassionate grounds were given to deserving candidates. We could not notice from the file anything which would go to show that there has been any consideration other than the merits of the case in deciding who is to be appointed to the limited vacancies available. Therefore, we are convinced that the case of the applicant that his case has not been considered properly and that there has been no proper application of mind etc. has no force.

5. The learned counsel for the applicant invited our attention to the ruling of the Hon'ble Supreme Court in Smt. Sushma Gasain and others V. Union of India and others, (1989) 4 SCC, 468, wherein the Supreme Court has observed as follows:

"We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate

is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

Basing on the above observation of the Supreme Court, the learned counsel for the applicant submitted that the non-availability of a vacancy cannot be considered as a ground for denying employment assistance on compassionate grounds and that if no vacancy exists, the Government is bound to create supernumerary post. We are not in a position to agree with the learned counsel that the Hon'ble Supreme Court has in the case under citation observed that in all the cases where persons claims for compassionate appointments, the Government should create supernumerary posts and to appoint them. What we understand from ~~the~~ ^{the} ruling under citation is that the claim for compassionate appointment should not be kept pending for an unduly ~~xxx~~ long period on the ground that the vacancy is not available and that if the authorities are convinced that the family is in such indigent circumstance, that deserves immediate relief by giving appointment to one of the near relative of the deceased, the situation should be solved by creating a supernumerary post. Out of the total number of vacancies arising every year, only 4.5% is set apart to be filled up by compassionate appointees. When the number of claimants for compassionate appointment is more, an assessment of comparative hardship should be made and the most deserving should be given the employment assistance. It is in that way

that the applicant was considered thrice and unfortunately, for the applicant on all the 3 occasions, there were more deserving cases. We are not in a position to find that there has been any arbitrariness in the decision taken by the authorities in the matter.

6. ^{conspectus of}
In the ^{facts and} circumstances, finding that the decisions taken by the authorites on the claim of the applicant for compassionate appointment ^{does} / not suffer from any vice, we ^{on} dismiss the application, without any order as to costs.

(AV HARIDASAN)
JUDICIAL MEMBER

24/6/91

(SP MUKERJI)
VICE CHAIRMAN

24/6/91

24-6-1991

trs