

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No. 161 of 2009

*FRIDAY*, this the 25<sup>th</sup> day of June, 2010

**CORAM:**

**HON'BLE Ms. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

Roshin R Mohan  
S/o. Late Rajmohan,  
786, Fathima Cottage,  
Blarkode Road, Eriyal,  
P.O Kudulu, Kasargod District.

... Applicant

(By Advocate Mr. P.V. Mohanan)

versus

1. Director General,  
India Council of Agricultural Research,  
Krishi Bhavan, New Delhi
2. The Director  
Central Plantation Crops Research Institute  
P.O.Kudulu, Kasargod
3. Ashwin Reghunath,  
L.D. Clerk,  
Central Plantation Crops Research Institute  
P.O.Kudulu, Kasargod

... Respondents

(By Advocate Mr.T.P.sajan (R1&2) )

The application having been heard on 17.06.2010, this Tribunal  
on ~~25.06.10~~ delivered the following:

**ORDER**

**HON'BLE Ms. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

The applicant in this OA seeks the following reliefs :

- (i) To call for the records leading to Annexure A-7 and set aside the same;
- (ii) To direct the respondent Nos. 1 and 2 to appoint the applicant as L.D. Clerk or any other post in C.P.C.R.I., Kasargod, under compassionate appointment scheme forthwith.
- (iii) To declare that the applicant is selected and deemed to have been appointed against the vacancy which arose either in the year 2006 or 2008 under compassionate appointment quota.
- (iv) To call for the records leading to selection and appointment of the 3<sup>rd</sup> respondent as L.D. Clerk against the post earmarked under compassionate appointment.

2. The brief facts of the case are that the applicant's father had, while working as Supporting Staff Grade-I in Central Plantation Crops Research Institute (CPCRI), expired on 28.07.2004. Being dependent of the deceased, the applicant made a request for appointment on compassionate ground. His request was considered against one of the two sanctioned posts set apart for compassionate appointment during 2006. Though the applicant was selected and placed at rank No.1 in December, 2006, he was not given appointment. Since no action was taken on the representation of the applicant, he moved this Tribunal by filing O.A. No. 731/2008. The said OA was disposed of on 15.12.2008 directing the 2<sup>nd</sup> respondent to take a decision on compassionate appointment of the applicant. Thereafter, the representation of the applicant was rejected vide letter dated 06.01.2009 stating that the Compassionate Appointment Committee had considered his case in the year 2008 but did not recommend it as the applicant's family was not found in indigent condition as compared to other applicants' to warrant consideration for appointment on

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compassionate ground. Challenging the said order, the applicant has filed this O.A. praying that the O.A. should be allowed.

3. The respondents contested the O.A. In their reply, they have submitted that the Compassionate Appointment Committee which met on 07.08.2006, examined 15 applications received during the period 1998-2005, including the case of the applicant, for appointment on compassionate ground. After considering the entire aspects governing for compassionate appointment Scheme, the Committee recommended the case of the applicant and another namely, Sri Sushant Burman, and on the basis of the recommendations, the applicant was called for personal hearing. His case was, thereafter referred to the Finance Wing to get financial concurrence for his appointment in CPCRI. It was observed by the Finance Wing that sufficient number of vacancies are not available to earmark 5% quota for such appointment. The matter was then taken up with the higher authority at ICAR. While so, another person, who claims to be a more deserving candidate for appointment on compassionate ground, had filed an O.A. That O.A. came to be disposed of directing the respondents to consider his case. As per the extant rules, in a particular recruitment year, only 5% of vacancies from direct recruitment quota alone could be earmarked for compassionate appointment. No appointment could be made during the year 2006 and 2007. The cases of the two candidates recommended by the Committee on 07.08.2006 could not be processed further since financial concurrence was not granted. During the year 2008, under compassionate quota only one post was estimated to be filled up. For the purpose, a meeting was convened by the Compassionate Appointment Committee on 16.12.2008, when 7 applications including the



case of the applicant were thoroughly examined and found the 3<sup>rd</sup> respondent as the most deserving candidate for appointment on compassionate ground. The appointment on compassionate ground cannot be claimed as a matter of right. It depends upon the comparative indigent conditions of the family of the deceased Government servant and the availability of vacancies. As the respondents have acted as per the rules and regulations laid down on the subject, they averred that the O.A filed by the applicant is devoid of any merit and the same should be dismissed.

4. I have heard learned counsel for the parties and perused the records.

5. The scheme for compassionate appointment is a welfare scheme meant to help the family of the Government employees who die in harness leaving their families in penurious condition. It is an admitted fact that the Compassionate Appointment Committee which met on 07.08.2006, has recommended the case of the applicant out of the 15 applications received during the period 1998-2005. The plea of the applicant is that his case should be considered in the light of the recommendations made by the Committee on 07.08.2006. The respondents contended that the said recommendation of the Committee could not be implemented on account of the observation made by the Finance Wing due to lack of vacancies for compassionate appointment during the relevant year. In fact, the Committee is constituted for the purpose of examining the applications and to submit its recommendations with full justifications in terms of the guidelines governing the provisions for appointment under compassionate appointment scheme issued by the Government of India from time to time.

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6. In fact, the competent administrative authority who accepts the recommendation of the Committee, should have, first assessed the number of vacancies available for the compassionate appointment scheme and obtained financial concurrence, before the Committee is constituted to examine the applications and offer its recommendations about candidates, to be selected, against the vacancies earmarked. The competent administrative authority accepts the recommendation and approves the cases. Since a reverse procedure was adopted, the process initiated for selection of candidates for appointment on compassionate ground in 2006 was aborted. To examine, such issues, the proceedings of the Committee was called for alongwith the number of yearwise vacancies under direct recruitment quota. The respondents filed an affidavit producing the necessary documents. Annexure R-II, the proceedings of the Committee which met on 16.12.2008, shows that the procedure outlined above has been followed. In fact, the Committee had IJSC Secretary from the staff side, as one Member, to keep the selection more transparent, fair and just, it is presumed. It is not mandated by the DOP&T O.M. dated 09.10.1998, as seen in 12(c). The parameteres fixed, for evaluation of the economic hardship of the family left behind by the late employee, are number of dependents, income and liabilities mainly. Certain points were awarded to each criterion to evaluate the comparative penurious conditions of each family. All the 7 candidates were wards of the deceased employees of CPCRI. The third respondent, whose family was found to be in the most indigent condition, was selected. The applicant was also considered, but not recommended as there were 4 more candidates besides the selected candidate, whose economic distress, was found to be worse than that of the



applicant. Since there were only 22 vacancies under direct recruitment quota in 2008, only one could be selected.

7. The learned counsel for the applicant on 30.03.2010 sought leave to file a rejoinder showing the number of vacancies available under direct recruitment quota from 2004 onwards. Ultimately on 08.06.10, he produced the minutes of the 4<sup>th</sup> meeting of XI IJSC dated 12.05.2009 in which the item XI-3-4 is about appointment on compassionate ground. The same is reproduced as under :

XI-3-4	<p>Appointment on compassionate grounds against the quota earmarked.</p> <p>Though vacancies identified for filling up under compassionate quota are available with effect from 01.04.2004 and applications of distressed and legitimate dependants of the deceased employees waiting for appointment, action initiated in this regard is lying midway and issue is seen totally disregarded. If such a delay is continued by the office, applications of the most of the distressed cannot be considered within the stipulated time limit of 3 years and thus they may lose their chance to get an appointment. The issue may be reviewed on priority such a welfare measure should not be allowed to be delayed indefinitely.</p> <p>Meeting of the compassionate appointment committee will be convened shortly and action for filling up the vacancy under compassionate quota will be expedited.</p> <p>One quota under compassionate ground has been satisfied and the incumbent is in position</p>	<p>Staff side invited attention to the remarks recorded by the Secretary (Staff Side, IJSC) in the proceeding of the last meeting of the Compassionate Appointment Committee according to which, still 03 vacancies are available under the quota to be filled up.</p> <p>The matter will be examined and taken action deemed necessary.</p> <p>Action: AAO (Estt.)</p>
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8. The respondents filed Annexure R/II(3) dated 16.12.2008 which is reproduced below :

"INSTITUTE JOINT STAFF COUNCIL  
CENTRAL PLANTATION CROPS RESEARCH INSTITUTE  
(Indian Council of Agricultural Research)  
Kudlu P.O., Kasaragod – 671 124, Kerala



With reference to the meeting of the Compassionate Appointment Committee held on 16.12.2008 (4.00 PM) for considering the applications for appointment under compassionate quota during the year 2008, following observation of the IJSC may be recorded in the proceedings :

1. Vacancies upto 31.03.2004 were carried over and reckoned for computing the posts to be filled up under compassionate quota. Accordingly, two candidates got appointed during December, 2008 (one each at Mohitnagar & Kahikuchi).

2. Vacancies arisen subsequently are as follows :

2004 (April-Dec)	:	07
2005	:	17
2006	:	23
2007	:	16
2008	:	22
Total	:	85

3. Although there were applications cleared for compassionate appointment in the meeting held on 07.08.2006 and interview held subsequently as a follow up action, no appointment is seen made yet.

4. The above facts were brought to the notice of the Director by the IJSC vide its letter No. XI-IJC/2008 dated 11<sup>th</sup> August, 2008 (copy enclosed),

Sd/-  
(M. Raveendran)  
Secretary (Staff side)"

Date : 16.12.2008

It shows the yearwise vacancies from 2004 to 2008 as 85. In para 3, it is mentioned that no follow up action was taken on the recommendation of the Compassionate Appointment Committee which met on 07.08.2006. Para 1 states that vacancies upto 31.03.2004 were reckoned to compute the vacancies for compassionate appointment quota and two candidates, one each at Mohitnagar and Kahikuchi, were appointed in December, 2008. So the inference to be made from the submission made above is that the

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vacancies available from 2004 to 2007 were not taken into account to work out the 5% quota available for compassionate appointment scheme. Therefore, 3 vacancies can still be made available for appointment under relaxation of the recruitment rules, upto the year 2007.

9. The respondents have put forward the contention that the appointment under compassionate appointment scheme should be restricted to 5% of vacancies arising in a particular calendar year alone. In para 12 (c) of DOP&T O.M. dated 09.10.1998, it is suggested that the Committee may meet during the second week of every month to consider the cases received during the previous month. Such a practice has been given a go by only because a ban on recruitment was imposed and hence the number of vacancies which could be filled up was reduced considerably. Again abolition of 10% posts during a course of 5 years consequent on implementation of V CPC, further impacted recruitment under direct recruitment quota. Therefore, it became well nigh impossible to get even one vacancy under the 5% compassionate quota in an year. Hence the only practical solution is to club vacancies of two or three years to arrive at one or two vacancies to consider appointment under compassionate appointment scheme. In denying an opportunity to deserving families facing financial distress, the overall guidelines given by the DOP&T or any Ministry cannot be taken as an excuse for not initiating selection procedure year after the year.

10. In view of the discussion made above, I feel that the ends of justice would be met if a direction is given to the respondents to reconsider the case of the applicant for appointment on compassionate ground in the light of the

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recommendations made by the Compassionate Appointment Committee on 07.08.2006. Accordingly, the O.A. is disposed of as under.

11. The order at Annexue A-7 dated 06.01.2009 rejecting the request of the applicant for appointment on compassionate ground is hereby quashed and set aside. The official respondents are directed to reconsider the case of the applicant for appointment in C.P.C.R.I., Kasargod, on compassionate ground in the light of the recommendations made by the Compassionate Appointment Committee on 07.08.2006, as also on the observations made above, and pass suitable orders within a period of 4 months from the date of receipt of a copy of this order.

12. There shall be no order as to costs.

(Dated, the 25<sup>th</sup> June, 2010)

  
(K. NOORJEHAN)  
ADMINISTRATIVE MEMBER

cvr.