

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 167/06

Thursday this the 15th day of February, 2007

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

P.Naseema Beegum,
D/o late P.V.Chériya Koya,
Pallath House, Kalpeni,
Union Territory of Lakshadweep.

....Applicant

(By Advocate Mr. P.Ganapathy)

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- 1 Union of India, represented by the
Secretary, Ministry of Personnel, Public
Grievances and Pensions, Department
of Personnel and Training,
New Delhi.
- 2 The Administration, UT of Lakshadweep,
Kavaratti.
- 3 Collector cum Development Commissioner
Union Territory of Lakshadweep,
Kavaratti.
- 4 Director of Education,
UT of Lakshadweep,
Kavaratti.

....Respondents

(By Advocate Mr. Shafik MA for Respondents 2to4
Advocate Mariam Mathai, ACGSC for Respondent No.1.

The application having been finally heard on 6.2.2007, the Tribunal
on 15.2.2007 delivered the following:

ORDER

This is the second round of litigation by the applicant who

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seeks an appointment as Trained Graduate Teacher (Hindi) under the Education Department of Lakshadweep Administration on compassionate grounds. When she approached this Tribunal earlier vide OA 748/05 with the same prayer, the respondents were directed by this Tribunal to consider her representation as per rules and to pass an appropriate order vide this Tribunal's order dated 21.10.2005. While her representation was pending, the Lakshadweep Administration issued Annexure.A6 order dated 19.11.2005 accepting the recommendations of the committee constituted for the purpose of recommending suitable persons against the 13 posts identified for appointment on compassionate grounds. The applicant was not one among them. Though the post of Trained Graduate Teacher (Hindi) in the Education Department for which the applicant was a claimant was one of those posts identified for appointment on compassionate grounds, the committee did not find the applicant fulfilling the necessary requirements for appointment against the said post on compassionate grounds and therefore, the committee recommended to the administration to fill up that vacancy through direct recruitment. The applicant has impugned the said Annexur.A6 order dated 19.11.2005 in the present OA. The applicant's contention is that she is the only eligible candidate for appointment as Trained Graduate Teacher (Hindi) on compassionate grounds against the vacancy identified by the administration. She has also claimed that she has fulfilled all the necessary conditions for such appointment on compassionate grounds.

2 The respondents have filed their reply. Along with the said reply they have produced Annexure.R5 order dated 27.3.2006 issued by them on the earlier directions of this Tribunal in OA 748/05 (*supra*). According to the respondents the applicant's application for appointment on

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compassionate grounds was carefully considered along with 79 other applications by the committee constituted for the purpose by the administration under the Chairmanship of the Secretary (Finance). The committee considered all the aspects of the applicant such as assets of the dependents of the deceased, monthly income of the family, liability, if any, of the family, availability of serving government employees among the dependents etc. and selected only 13 most deserving candidates for appointment on compassionate grounds to various vacant posts. The applicant was not recommended by the committee after making a detailed study, as it was found that one of her brothers is employed in the government service as a constable in the Indian Reserve Battalion under the Administration and her family is having assets worth more than 2 lakhs and they are in receipt of a family income of more than Rs. 2000/- p.m.

3 The applicant has filed a rejoinder stating that the applicant's father while working in the Police Department, did not acquire any assets and the financial position of the family was not good. While submitting the application for compassionate appointment, the applicant with bonafide intention stated in the application form that the family had an asset of Rs. 4,55,609. According to her the said amount of the asset was to be divided with the father and mother of the deceased and wife and children of the deceased. After dividing the total assets among 5 claimants, her share was only very minimal requirement but the committee considered the total assets as the asset of the applicant. She has also submitted that the monthly income of Rs. 2000 is to be distributed among the other members of the family.

4 We have heard Advocate Mr.Kochukunju on behalf of the

applicant and Advocate Mr. Shafik MA for respondents 2 to 4. The law is well settled. Since the compassionate appointment is against the constitutional provisions of Articles 14 and 16, utmost restraint has to be observed by the administration while making appointments in such case. The very object of the scheme for compassionate appointment framed by the Government of India is to grant appointment on compassionate grounds to a dependent family member of the government servant dying in harness or who has retired on medical grounds, thereby leaving the family in penury and without any means of livelihood to relieve the family of the government servant concerned with financial destitution and help it to get over the emergency. Once the committee appointed to identify the person who deserves to be considered under the scheme has rejected the claim of the applicant after considering the entire relevant factors, I do not consider that there is any further scope for this Tribunal to intervene and direct the Respondents to provide any employment assistance to the applicant. The Apex Court in its judgment in the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambedkar and others, JT 1994(2) SC 183 held that the High Courts and the Administrative Tribunals can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment. The applicant when approached this Tribunal earlier, vide OA 738/05, the Tribunal directed the respondents to consider her case in terms of the relevant rules and pass an appropriate order. According to the respondents, they have considered her case and thereafter rejected it as the same did not conform to the various parameters prescribed for the purpose. The Apex Court again in its judgment in the case of Auditor General of India and others Vs. G. Ananta Rajeswara Rao, 1994(1) SCC

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192 has held that appointment on compassionate grounds of dependents clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable. I do not find any infirmity in the findings of the committee who considered the case of the applicant and did not recommend her case for appointment on compassionate grounds. I, therefore, do not find any reason to interfere in the matter. The OA is, therefore, dismissed. There shall be no order as to costs.

Dated this the 15th day of February, 2007


GEORGE PARACKEN
JUDICIAL MEMBER

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