

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 170 of 1991

DATE OF DECISION 26-3-1992

Mr Gabriel K Applicant (s)

Mr A Ramaprabhu Advocate for the Applicant (s)

Versus

Union of India & another Respondent (s)

Smt Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV KRISHNAN, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The applicant, Mr Gabriel is son of late Shri D Kornalyose who died on 18.11.1990 while in service as a Sanitary Maistry under the Southern Railway. The applicant who is a Matriculate soon after the death of his father, made a representation to the second respondent praying for appointment on compassionate grounds. His mother also made such a representation. As the representations were not responded to promptly, and as the family was in indigent situation, the applicant has filed this application praying that the second respondent may be directed to provide him with employment assistance on compassionate ground commensurate with his educational qualification

without delay. He has also prayed that the respondents may be directed to allow the applicant and the other legal aides of late Shri Kornalyose to continue to reside in the Railway Quarters which was allotted to Shri Kornalyose.

2. The respondents have filed a reply statement contending that since there are several representations pending for compassionate appointment, the applicant will have to wait for his turn to get a suitable appointment. Regarding the retention of the quarters, the respondents have stated that as per order dated 21.12.1990, the members of the family of late Shri Kornalyose have been allowed to retain the quarters on payment of normal rent upto 18.5.1991.

3. During the pendency of the application, the applicant was asked to attend a written test for Group 'C' service on 3.7.1991 and was thereafter issued an offer of appointment dated 24.7.1991 at Annexure-V informing him that he has been selected for skilled Artisans post, that post^{ing} orders would be issued subject to availability of vacancy in Mechanical/Electrical/ Signal and Telecommunication Department, that final absorption in the post would be subject to his successful completion of the prescribed training and that in case of failure during the training, he would be absorbed against a Group 'D' post.

4. The applicant has filed a rejoinder producing this Annexure-V order and stating that the action of the respondents in selecting the applicant for the post of an Artisan with a condition that he would be absorbed only against a Group 'D'

vacancy in case he failed during the training was calculated to harass him as he being only a matriculate could have been considered for a Clerical post.

5. The respondents have filed an additional reply statement stating that according to the method of selection for appointment on compassionate grounds for non-graduates who secured marks between 30 and 39% in the written test, the post to be offered is that of skilled Artisan and that as the applicant has secured 38.3% marks he could be offered only the post of skilled Artisan. It has also been stated that Matriculates are also considered for appointment to the post of skilled Artisan by direct recruitment and that therefore, the selection of the applicant for appointment to Artisan post is strictly in accordance with the norms.

6. We have heard the arguments of the learned counsel on either side and have carefully perused the pleadings and the documents.

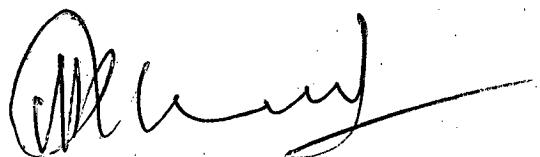
7. The grievance of the applicant that his request for compassionate appointment has not received due attention by the authorities concerned has now been redressed. He has been selected for appointment as a skilled Artisan. The learned counsel for the respondents submitted that an order directing the applicant for reporting for training has already been issued. The learned counsel for the applicant argued that as the applicant does not possess any technical qualification or any technical background, it is likely that he would fail during the training

and that his selection for the post of skilled Artisan is therefore calculated to harass him and to pull him down. We do not find any substance in this argument. The apprehension in the mind of the applicant that he would fail during the training is an indication of his lack of self confidence. Since ordinary matriculates are eligible for recruitment to the post of skilled Artisan even by direct recruitment, we fail to understand why the applicant should ^{poster} such a misapprehension in his mind. The applicant cannot claim as of right that he should be given an appointment to the clerical cadre alone. The scheme for compassionate appointment is envisaged to save the family left destitute on account of the death of its bread winner from extreme hardship, poverty and starvation and not to give the sons, daughters or near relatives of the deceased Government servant employments of their choice. We are of the ^{view} that the applicant should be contended as he had been lucky to get an offer of appointment.

8. Regarding the prayer for allowing the applicant and the other members of the family of deceased Kornalyose, to retain the Railway quarters which had been allowed to Kornalyose as the respondents had already permitted the family to retain it for some time and as the applicant has now been given appointment under the Railway, it would meet the ends of justice if the applicant is directed to make a representation within 15 days to the second respondent to allot the same quarters to him and with a further direction to the second respondent to dispose of the representation within a period of 15 days from the date of receipt thereof.

9. In the facts and circumstances of the case, we dispose of this application with a direction to the applicant to report for training at the direction of the respondents within a week from the date of receipt of the intimation from the respondents which the respondents should ask forthwith in that behalf/and with a further direction to him to make a representation to the second respondent for allotment of the quarters in which he is staying now to him within 2 weeks from of receipt of the intimation.

the date/The second respondent is also directed to have the representation submitted by the applicant considered and disposed of by the competent authority within a period of one month from the date of receipt of the representation. Till the disposal of the representation, the applicant and his family should be allowed to continue their residence in the Railway quarters. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER


26/3/92

(NV KRISHNAN)
ADMVE. MEMBER

26-3-1992

trs