

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 174/99

Friday, this the 19th day of February, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

S.R. Bindhu,  
Padmanabhabilasom Bunglow,  
Kulathur, Uchakada P.O.,  
Neyyattinkara,  
Thiruvananthapuram District.

...Applicant

By Advocate Mr. K.P. Satheesan

Vs.

1. Union of India represented by  
Secretary, Department of Space,  
Government of India,  
New Delhi.
2. The Director,  
Vikram Sarabhai Space Centre,  
Thiruvananthapuram.
3. The Administrative Officer,  
Recruitment Section,  
Vikram Sarabhai Space Centre,  
Thiruvananthapuram.

...Respondents

By Advocate Mr. C.N. Radhakrishnan

The application having been heard on 19.2.99, the  
Tribunal on the same day delivered the following:

ORDER

The applicant seeks to issue direction or order to  
respondents 2 & 3 to issue appointment order to her and also  
to direct respondents 2 & 3 to pay allowance and other benefits  
to the applicant in the cadre of Office Clerk-A with effect  
from 13.6.97, the date of Annexure-II order.

2. The applicant says that she is an educated unemployed  
woman hailing from a very poor family and her father while

working as Tradesman B in Vikram Sarabhai Space Centre, Thiruvananthapuram died on 31.3.96 and she is entitled to get an appointment on compassionate ground.

3. In the O.A. it is stated that the applicant has passed the written test, speed test and came out successful in the interview and thus she is fully eligible for appointment as Office Clerk. The applicant says that she was informed that she was selected for appointment as Office Clerk. There is no document in support of the same. There is no vested right to get an appointment on compassionate ground. A selection, even if made, does not give right to a person to get the appointment.

4. From A-3, it is seen that the appointment on compassionate ground is sought more for the purpose of the applicant getting married than the fact that it is to get over the penury faced by the members on the death of the sole bread winner of the family. It is needless to say that compassionate appointment is given not for the purpose of having better chances in the matrimonial market but is only to tide over the immediate financial crisis faced by the members of the family on the death of the ~~only~~ breadwinner.

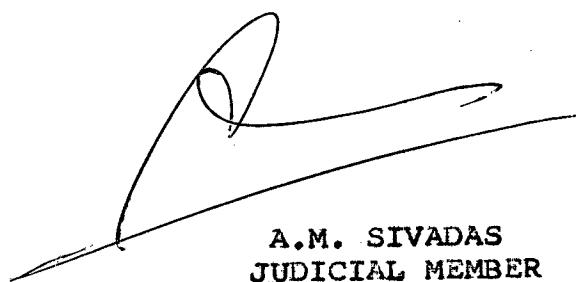
5. That apart, in column 7 of the O.A. it is stated thus:

'The applicant declared that she has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made and no such application is pending before any other forum.'

6. The learned counsel appearing for the respondents submitted that the very same applicant approached the High Court of Kerala by filing O.P. No. 1893/99 for the very same relief and the said O.P. was dismissed. The learned counsel appearing for the applicant submitted that an O.P. was filed by the very same applicant for the very same relief but it was withdrawn without prejudice. Even if it was withdrawn without prejudice, it does not give a right to the applicant to suppress that fact in this O.A. and should have stated that fact. It cannot be a case that filing of the said O.P. is not within the knowledge of the applicant. A party approaching the Tribunal should come forward with clean hands. If a party approaches the Tribunal suppressing any material fact within his or her knowledge should necessarily face the consequence. The consequence is dismissal of the O.A.

7. Accordingly, the O.A. is dismissed. No costs.

Dated the 19th day of February, 1999.



A.M. SIVADAS  
JUDICIAL MEMBER

nv  
19299

LIST OF ANNEXURES

1. Annexure AII: Copy of letter No. VSSC/RMT/9-0/82 dated 13.6.97 issued by the 3rd respondent.
2. Annexure AIII(a): English translation of copy of representation by N. Lekshmi and C. Sreedharan dated 20.11.1998.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 174 of 1999

Thursday, this the 13th day of February, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. S.R. Bindhu,  
Padmanabhavilasom Bunglow,  
Kulathur, Uchakada PO,  
Neyyattinkara,  
Thiruvananthapuram District. ....Applicant

[By Advocate Mr. K.P. Satheesan]

Versus

1. Union of India represented by Secretary,  
Department of Space, Government of India,  
New Delhi.

2. The Director,  
Vikram Sarabhai Space Centre,  
Thiruvananthapuram.

3. The Administrative Officer,  
Recruitment Section,  
Vikram Sarabhai Space Centre,  
Thiruvananthapuram. ....Respondents

[By Advocate Mr. C.N. Radhakrishnan]

The application having been heard on 13-2-2003, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant is the only daughter of the deceased C.Ramachandran, who, while working as Tradesman-B at Vikram Sarabhai Space Centre (VSSC for short), died on 31-3-1995. Shri Ramachandran was survived apart from the applicant by his mother as also the widow. Immediately on the death of Ramachandran, a claim was made by the applicant for appointment on compassionate ground on 31-10-1995. Pursuant to the above claim, the applicant was informed by Annexure A-II order dated 13-6-1997 that on her representation it had been decided to consider her

candidature for the post of Office Clerk 'A' in the scale of pay of Rs.950-1500 against a future vacancy on extreme compassionate grounds and directed her to appear for a written test and for a typing test if she qualified in the written test. She appeared for the written test as also the typing test successfully and was also called for an interview. Then she was informed that the appointment order would be issued in due course. Finding that the appointment order was not issued, the applicant's grandmother submitted Annexure A-III representation to the Director, VSSC on 20-11-1998 pleading for immediate action as it was her last wish to see her granddaughter is married before her death. As no appointment order was issued to her, the applicant filed this Original Application, which was dismissed by order dated 19th February, 1999 mainly on the ground that the applicant was guilty of suppression of certain material facts as also that appointment on compassionate grounds was sought mainly on the ground that it would be an asset to her in matrimonial market. The applicant carried this matter before the Hon'ble High Court of Kerala by filing OP No.7555/99. The Hon'ble High Court of Kerala allowed the OP and remanded the matter back to this Tribunal for taking a fresh decision on merits. Thus, the case is again before us.

2. Respondents in their reply statement contend that on the basis of the claim made by the applicant the matter was processed and it was decided to consider the applicant for the post of Office Clerk 'A', that as she had cleared the written test, typing test and viva voce, it was decided to offer an appointment to her, that in the meanwhile on a vigilance report it was found that the applicant's mother had been living separately from her husband long before his death, that she had begotten two children in another man, that the grandmother of the applicant was living with her second son and, therefore, the

decision to appoint the applicant was not valid and that for these reasons the applicant is not entitled to get any relief. Apart from the above, it is also stated in the reply statement that the family of the deceased had received an amount of Rs.1,75,504/- towards Provident Fund etc. and that the applicant had suppressed the material fact that the family is in possession of a residential building.

3. The applicant has filed a rejoinder, in which the averments in the reply statement that her mother was living with another person and had begotten two children are refuted. It is stated that the applicant, her mother and grandmother were depending solely on the maintenance received from her late father and that on the death of the applicant's father the family has become destitute. In the rejoinder, it is also admitted that a sum of Rs.1,75,231/- was paid to the applicant, her mother and grandmother in equal shares, but she contends that she is not in a position to meet the expenses of the family as there is no means of income.

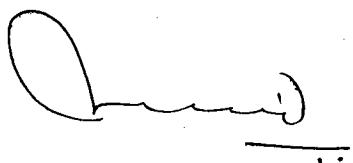
4. Upon carefully going through the entire materials placed on record and upon hearing the learned counsel of the applicant and the learned counsel of the respondents, we find that the respondents cannot now be heard to say that the applicant does not deserve employment assistance on compassionate grounds. After being satisfied that the applicant was to be offered appointment on "extreme compassionate grounds" and having informed the applicant that she could be appointed, it is unfair and opposed to all canons of justice and equity to deny the appointment merely stating that some enquiry - allegedly held behind the back of the family - revealed that the applicant's mother had been living with another person and had begotten two children. The death of the applicant's father took place on

31-3-1995. The request for employment assistance was made by the applicant in October, 1995. More than 1-1/2 years after, Annexure A-II order dated 13-6-1997 was issued by the competent authority deciding to appoint the applicant on the post of Office Clerk 'A', if she would clear the written test, typing test and viva voce. It cannot be presumed that the decision contained in Annexure A-II order dated 13-6-1997 was made without making the due enquiry as is required. Nothing on record has been brought out by the respondents to show that there is any basis for what is contained in the reply statement and that the applicant and her mother were not depending on her father or that the applicant's mother had begotten two other children. After issuing Annexure A-II order and after putting the applicant to the written test, typing test and viva voce, if the competent authority has taken a different decision, the same should have been intimated to the applicant in due course. That was not done. Now when the applicant has come up with a claim before the Tribunal against the inaction of the respondents in not giving effect to the offer of appointment to her. The respondents have filed a reply statement levelling wild allegations against the applicant and her mother after five years. Another contention taken by the respondents to deny the appointment of the applicant is that she had suppressed the information that the family of the deceased was in possession of a residential building. True, the applicant had mentioned in Annexure R1(c) against Col.No. III(e), i.e. "Movable and immovable properties and annual income earned therefrom by the family" as "No". The statement is partly correct because, according to the applicant, there is no income derived from the property. This should not have been taken as a ground to deny employment assistance to the applicant. Further, on the basis of Annexure R1(c), after due enquiry and 1-1/2 years later, Annexure A-II order was issued deciding to give the applicant an

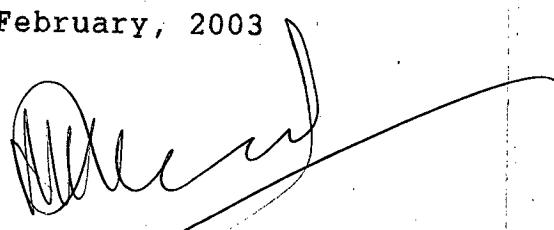
appointment on extreme compassionate grounds. That the situation in this case warranted employment assistance on extreme compassionate grounds cannot now be disputed because in Annexure A-II order it has been stated that the competent authority has decided to consider the candidature of the applicant on "extreme compassionate grounds". The situation has not undergone any change. The applicant is still unmarried and is unemployed and there is none for the applicant to look up for sustenance. In the light of what is stated above, , we are of the considered view that the contention of the respondents that the applicant is not entitled to employment assistance on compassionate grounds is only to be rejected.

5. Accordingly, we allow the Original Application and direct the respondents to consider the applicant for appointment to the vacancy which would arise next in the post of Office Clerk 'A' for which she has been found eligible and suitable. An order in this regard shall be issued by the respondents as expeditiously as possible, at any rate within a period of six months from the date of receipt of a copy of this order. No order as to costs.

Thursday, this the 13th day of February, 2003



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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