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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.197/09

Friday this the 26th day of March 2010

C O R A M :

**HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Raj Mathew,
S/o.late K.J.Mathew,
Kunnumpurath House,
Jose Giri, Cherupuzha, Kannur.

...Applicant

(By Advocate Mr.P.V.Mohanan)

V e r s u s

1. Union of India represented by Secretary to Government,
Department of Posts, New Delhi.
2. The Chief Post Master General,
Kerala Circle, Thiruvananthapuram.
3. Superintendent of Post Offices,
Kannur Division, Kannur.

...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 26th March 2010 the Tribunal
on the same day delivered the following :-

O R D E R

HON'BLE Mr.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicant is the son of a deceased Extra-Departmental ED Postman who died on 10.2.2008. After the death of his father the applicant filed an application for appointment under compassionate ground appointment scheme. The respondents considered the application of the applicant but the Circle Relaxation Committee did not recommend the



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name of the applicant for appointment under the compassionate ground appointment scheme. Hence the applicant has filed this Original Application. At the time of filing of the Original Application this Tribunal considered certain facts of the case and found that the applicant at the time of filing of the Original Application was working as ED BPM on temporary basis and this Court ordered that his temporary service shall not be terminated. Hence he is till continuing in the said post now.

2. The Original Application has been admitted and the respondents resisted the application by filing reply statement taking the stand that the applicant's family is not in such a financial stringent condition to have a appointment under the compassionate appointment scheme. The reasons for such a decision is arrived on the fact that the applicant's family is getting an annual income of Rs.23000/- whereas other candidates who applied for compassionate appointment are more indigent than the applicant. Hence the case has been rejected.

3. After the filing of the reply statement, this Tribunal directed the respondents to produce the minutes of the Circle Relaxation Committee. Thereafter the minutes of the Circle Relaxation Committee, which met on 7.10.2008 has been produced.

4. We have heard Shri.P.V.Mohanan counsel appearing for the applicant and Shri.Rajesh counsel appearing for the respondents on behalf of Shri.Sunil Jacob Jose,SCGSC. We have also perused all the



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documents produced before this Tribunal. The main contention of the counsel for the applicant is that the finding rendered by the Circle Relaxation Committee or the respondents are not based on any facts regarding the financial condition of the applicant. Though they have stated in the reply statement that the respondents have considered the membership of the family and the financial position of the family, the finding rendered that the applicant's family is getting an annual income of Rs.23000/- is erroneous and not based on any fact. Counsel further submits that the Circle Relaxation Committee or the respondents had missed the fact that out of the said Rs.23000/-, Rs.22000/- is the personal pay which the applicant is receiving for his daily wages from the respondents as Temporary Mail Deliverer. This amount shall not be considered as the annual income of the family of the applicant. If this Rs.22000/- is deducted even out of the landed property alleged to have a measuring of two acres will fetch only Rs.1000/- per year. In the above circumstances, the consideration now placed by the respondents are not correct and the comparing in some other cases which the department allowed, it is seen that the financial position of the family is much higher.

5. To the above argument the counsel for the respondents relying on the reply statement as well as the affidavit filed on behalf of the respondents submits that the respondents have considered the entire facts regarding the family of the applicant. It is found by the respondents that the applicant's family has received an amount of Rs.48000/- as terminal benefits and that apart the annual income was also considered by the

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respondents. Further the contention of the counsel for the respondents is that the applicant has not produced necessary documents showing the financial position or the real income of the family.

6. On considering the stand taken by the counsel appearing for the parties and also on perusing the records, we have to see that whether the decision taken by the respondents are correct or not. The respondents have no dispute regarding the death of the father of the applicant, filing of the application and also the recommendation made by the District Superintendent of Post Offices who recommended his name for compassionate appointment as per the annexures attached to the minutes of the Circle Relaxation Committee produced before this Tribunal. The case of the applicant is endorsed as item No.18 and it is recorded as recommended. If so, the further question to be considered is whether the finding rendered by the respondents regarding the annual income is correct or not. We have already admitted that before filing the application the respondents themselves have engaged the applicant as temporary mail deliverer on daily wages and he was getting an amount of Rs.22000/- per year and that amount has been taken as the family income. This is a clear mistake committed by the respondents in arriving at a decision that the family of the applicant is less indigent than the others already recommended. If so, we have no hesitation to set aside the order now passed by the respondents rejecting the claim of the applicant and direct the respondents to reconsider the application of the applicant and pass appropriate orders thereon within a reasonable time, at any rate, within



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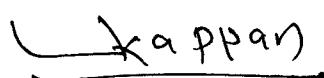
sixty days from the date of receipt of a copy of this order.

7. In the above circumstances, the OA stands allowed by directing the respondents to reconsider the case of the applicant afresh and Annexure A-9 will stand quashed without any order as to costs. We order accordingly.

8. Before we part with the order we have already seen that the applicant was temporarily engaged by the department as a Mail Deliverer and it is only appropriate for this ^{✓ Tribunal} Court to direct the respondents to allow the applicant to continue with that temporary employment till the final decision is taken by the department in this matter.

(Dated this the 26th March 2010)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE K.THANKAPPAN
JUDICIAL MEMBER

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