

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 220 of 2013

Friday, this the 11th day of April, 2014

CORAM:

Hon'ble Mr. Justice A.K. Basheer, Judicial Member
Hon'ble Ms. Minnie Mathew, Administrative Member

U. Navas, S/o. Late M. Usmankunju,
Vilayilvilakathu Veedu, T.C.52/380,
Homeo College Jn., Nemom PO,
Thiruvananthapuram – 20.

..... **Applicant**

(By Advocate – Mr. Sanu S.Paniker)

V e r s u s

1. Union of India, rep. by its Secretary,
Ministry of Telecommunication & Information Technology,
O/o. Parliament, New Delhi – 110 001.
2. Chief Postmaster General, O/o. Chief Post Master General,
Department of Post, Kerala Circle, Thiruvananthapuram-695 033.
3. The Assistant Director (Recruitment), O/o. Chief Post Master
General, Department of Post, Kerala Circle,
Thiruvananthapuram-695 033.
4. The Superintendent, O/o. Superintendent of Post Office,
Thiruvananthapuram South Division,
Thiruvananthapuram – 695 036. **Respondents**

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 11.04.2014, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Ms. Minnie Mathew, Administrative Member -

This Original Application has been filed against the orders of the third respondent dated 19.10.2011 rejecting the claim of the applicant for



appointment under the scheme of compassionate employment.

2. The applicant submits that immediately after the death of his father on 10.10.2007 in a road accident, he submitted an application dated 18.10.2007 along with requisite documents under the compassionate employment scheme as his father was a serving Group D employee under the respondents. On 10.12.2010 the 4th respondent advised him to submit certain document for processing his claim. After submission of all the relevant documents the 4th respondent again issued another letter dated 26.4.2011 advising him to submit some more documents. This direction was also complied with. At this juncture on 19.10.2011 the 3rd respondent issued the orders of rejection stating that the Department introduced new recruitment rules to the cadre of MTS on 16.12.2010 according to which the minimum educational qualification is matriculation or equivalent. The applicant was informed that he could not be considered for appointment in the post of MTS since he has not passed the SSLC examination. The applicant contends that the respondents are not justified in applying the new recruitment rules, retrospectively for denying him an appointment under the compassionate employment scheme and that the application for appointment should be considered as per the rules which was existing at the time of receiving of the application and that the required qualification at the relevant period was VII standard pass only. Further even after the introduction of the new Recruitment Rule, he was advised by Annexure A-4 letter dated 26.4.2011 to submit all the relevant documents for getting employment. He has cited the judgment of the Division Bench of the Hon'ble High Court of Kerala in MTD.



BSNL & Ors. Vs. V.G. Titus reported in 2011 (4) ILR 379 in which it has been held that the denial of benefit under the compassionate appointment scheme due to subsequent change of all norms is not proper. He has also cited the Full Bench decision of the Hon'ble High Court of Kerala reported in 2011 (3) KLT 952 (FB) that recruiting agencies like the Union or State Public Service Commission is not vested with any power to deviate from the qualification prescribed in the original notification. The applicant has therefore challenged the orders of rejection at Annexure A-1 as the new Rule will not be applicable in his case.

3. In their reply statement the respondents have stated that the applicant could not produce all the required documents for processing his case under compassionate appointment and there was delay in completing official formalities. In the meantime the Department introduced new recruitment rules to the cadre of MTS on 16.12.2010 which prescribed minimum educational qualification as matriculation or equivalent. As the applicant did not possess matriculation or equivalent the impugned Annexure A1 order rejecting his application for compassionate appointment was issued. However, the respondents have reconsidered the case of the applicant in the light of the order of DOP&T OM No.14014/2/2009-Estt.(D), dated 11.12.2009 according to which under exceptional circumstances the Government may consider recruiting persons not immediately meeting the minimum educational standards and such recruited persons are to be engaged as trainees and will be paid the Grade pay of the MTS only on acquiring the minimum educational qualification. 13 such applications were placed before



the circle relaxation committee and after due consideration the CRC found that there were other candidates more indigent than the applicant who deserves appointment under the relaxed standard and his case was rejected for want of "relative indigency". Since the compassionate appointment is restricted to 5% of the direct recruitment vacancies and the number of applications received is more, only the most deserving cases can be considered by the circle relaxation committee. The respondents also submitted that a method of allocating points to the applicant based on the various attributes was introduced by the Department in order to ensure that the most deserving cases are provided relief under the scheme of compassionate appointment.

4. We have heard the counsel on both sides and also perused the records. It is seen that the applicant has submitted his application for compassionate appointment on 18.10.2007 soon after his father's death on 10.10.2007. On 1.2.2008 the fourth respondent has submitted a detailed proposal strongly recommending sympathetic consideration and enclosing 13 relevant documents as "the family is in extreme distress and deserves support". Thus there has been no delay on the part of the applicant in submitting the requisite application and connected documents including the consent letters of all his family members . On the other hand the matter has been unduly delayed by the respondents who have after a lapse of more than two years raised certain objections and asked for certification of the claims made by the applicant. There is a further letter dated 25.4.2011 again asking for attested copies of sanctioned memo of revised pension order, DCRG, etc. Again on



01.05.2012 a letter was addressed by the Department of Posts to the CPMG, Kerala asking for confirmation as to whether the late father of the applicant was a regular/casual/contingency paid worker. Thus, it is clear that the respondents had taken undue time in processing the case for compassionate appointment. After a delay of almost five years his case was considered in 2012 by which time the respondents introduced certain changes in the norms and also introduced a new system of awarding points for assessing indigency. Thus, it is patently clear that the respondents have inordinately delayed the processing of the application for compassionate appointment. The applicant's case is that he should have been considered under the Rules which prevailed at the relevant point of time when he submitted his application for compassionate appointment. There is considerable merit and force in this contention which has been upheld by the various judgements of the Hon'ble High Court cited by the applicant. The applicant should not be placed at a disadvantage merely on account of change of norms which was introduced much later. We have taken note of the respondents submission that they have reconsidered the applicants case in the light of the order of DOP'I permitting consideration of cases which do not meet the minimum educational standards. However, we also note that at the relevant point of time there was no system of awarding marks. But the immediate Controlling Officer in his letter dated 01.02.2008 highlights the extreme financial distress of the family of the deceased employee warranting the relief envisaged under the scheme of Compassionate Appointment. We therefore hold that the applicant has a right to be considered under the norms which prevailed at the time of submission of his application and that his case cannot be considered



with reference to any revised/new norms that have been introduced by the Department at a much later stage.

5. In the result we are inclined to allow this OA. Accordingly, Annexure A1 order is quashed with a direction to the respondents to reconsider the case of the applicant for compassionate appointment as per the norms governing compassionate appointment at the time of the submission of the application for compassionate appointment and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(MINNIE MATHIEW)
ADMINISTRATIVE MEMBER


(JUSTICE A.K. BASHEER)
JUDICIAL MEMBER

“SA”