

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 224 of
T. A. No. 1991

DATE OF DECISION 9-8-1991

CK Minimol _____ Applicant (s)

Mr MR Rajendran Nair _____ Advocate for the Applicant (s)

Versus

Union of India & another _____ Respondent (s)

Mr TPM Ibrahimkhan, ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *(S)*
2. To be referred to the Reporter or not? *(M)*
3. Whether their Lordships wish to see the fair copy of the Judgement? *(M)*
4. To be circulated to all Benches of the Tribunal? *(M)*

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The grievance of the applicant CK Minimol is that her request for employment assistance on compassionate grounds has been ultimately turned down by the order dated 5.12.1990 at Annexure-I by the Chief General Manager, Telecom Kerala Circle, Trivandrum, the respondent-2, without proper consideration.

2. The applicant is the third daughter of late Shri CK Krishnan, who died while in service on 5.2.1978. Shri Krishnan was survived by a son CK Sasidharan, his widow PK Kausalya and three daughters. Though Sasidharan was employed as a Lineman even before the death of Shri Krishnan, considering the request

of Krishnan's widow, the Department gave employment on compassionate grounds to CK Sasikala. While the family was getting on with the income of Sasikala and Sasidharan, on 2.11.1982 Sasidharan who was a bachelor aged 31 years died of heart attack. After the death of Sasidharan, in 1984 the applicant made a request to the Divisional Engineer(Admn.) Ernakulam Telephone District for compassionate appointment. This request was turned down by order dated 6.4.1985 issued by the District Manager, Telephones, Ernakulam at Annexure-II on the ground that Smt CK Sasikala another member of the family had already been employed on compassionate grounds. Subsequently, on 5.5.1987 Sasikala got married. So on 2.7.1987, Smt Kausalya, the mother of the applicant made a representation to the District Manager, Telecom, Ernakulam to consider the case of the applicant for compassionate appointment. To this request the applicant received the reply dated 6.4.1989 at Annexure-IV informing her that though the Circle High Powered Committee considered her case, the request could not be accepted. The applicant's mother pursued the matter further and made a representation dated 26.12.1989 to the then Minister for Telecommunications. In reply to this, she received the communication dated 16.2.1990 issued by the Chief General Manager, Telecommunications, Kerala Circle, Trivandrum at Annexure-VI informing her that though her request for employment assistance on compassionate grounds to Minimol was examined by the Circle High Powered Committee on 25.1.1990

the request has been rejected as Committee concluded and the decision taken earlier did not require any modification as no fresh circumstances warranting a change were observed by the Committee. The applicant's mother submitted a further representation on 26.2.1990 to the second respondent requesting for a reconsideration of the issue and at least to inform her the reason why the Circle High Powered Committee had declined to consider the case favourably. It was mentioned in the representation that for the last 10 years, she had been bed-ridden and she was unable to stand or even to take food independently and that for the reason of her marriage of second daughter Sasikala, the family had to depend on the meagre family pension and ~~and sanctioned~~ ^{and} ~~xxx~~ on the death of her husband ^{as} ~~as~~ ^{on} the death of her son Sadidharan, no family pension was sanctioned. The People's Council for Social Justice also addressed Hon'ble Minister for Communications by a letter dated 25.5.1990 requesting that the circumstances mentioned in the representation of the applicant may be looked into and efforts may be made to redress her grievance. The applicant's mother also made a representation to the Hon'ble Prime Minister on 26.4.1990. In reply to these representations, the applicant's mother was informed by letter dated 17.7.1990 of the Chief General Manager, Kerala Telecommunications informing her that the Directorate had rejected her request for compassionate appointment to her daughter Minimol. Aggrieved by the above reply, the applicant's mother submitted representations before the Chief Justice of

India and President of India. These representations were forwarded to the concerned Department. The applicant also submitted a representation on 12.11.1990 to the Chief General Manager, Telecommunications, Trivandrum detailing the circumstances and the difficulties to which the family has been driven ^{to} account of the death of Sasidharan. It was to this representation ultimately, the applicant received the Annexure-I letter informing her that though the request for compassionate appointment of Minimol was reexamined by the CGMT, Trivandrum that request could not be acceded to. It is under these circumstances that the applicant has filed this application praying that the impugned orders at Annexure-I, II, IV, VI and VIII may be quashed and the respondents may be directed to reconsider the whole issue and to grant the applicant appointment on compassionate grounds with retrospective effect from 1984. It has been averred in the application that the authorities have turned down her claim for appointment on compassionate grounds without application of mind to the changed circumstances mentioned in the representations.

3. The respondents in the reply statement have contended that compassionate appointment was given to Sasikala on the death of Shri CK Krishnan though Sasidharan was then employed, in relaxation of the rules, that even though Sasikala got married subsequently as per declaration given by her, she was bound to lookafter the family of the deceased Krishnan and that on the death of Sasidharan, the Circle High Powered Committee though considered the case of Minimol for compassionate

appointment, considering the changed circumstances after the marriage of Sasikala, applicants request for compassionate appointment could not be considered as there were more deserving cases. It has also been stated that the averments in the application that the High Powered Committee did not apply its mind to the facts and circumstances is baseless and born ~~xxxxxx~~ ^m out of despair of the applicant. According to the respondents as there is no merit in the application, it is liable to be dismissed.

4. We have gone through the pleadings and documents produced and have also heard the learned counsel for the parties. On our direction the applicant filed an affidavit swearing ^m ~~xxxxxx~~ ^m that Sasidharan was a bachelor and did not have separate family of his own on the date of his death.

5. Employment assistance on compassionate grounds is to be extended to a son, daughter or a near relative of a Government servant dying in harness or retiring on invalid pension in order to save his family from extreme poverty. The father of the applicant died in 1978. Though Sasidharan the elder brother of the applicant was already employed, the Department considering the financial background of the family, its assets and liabilities relaxed the rules and offered appointment to Sasikala, the second daughter of deceased Krishnan. Not very long after the death of Shri Krishnan, the family was destined ^A to receive another stroke of misfortune, namely, the death of Sasidharan. Probably because Sasikala ^m who was given

employment on compassionate grounds was remaining unmarried, the applicants mother did not make any request for compassionate appointment for about 2 years. Then in 1984 she made a request for compassionate appointment ^{to} ~~to~~ her daughter, the applicant. [✓]
This request was turned down by Annexure-II order on the ground that another members of the family had got employment on compassionate grounds. Since CK Sasikala was unmarried and employed, the rejection of the request for the compassionate appointment at that time can be fully justified. But after Sasikala got married, the applicant's mother and the applicant went on making representations claiming employment assistance to the applicant. They had stated in representations that with the marriage of Sasikala, the family could not expect much assistance from her as she had become member of another family and had obligations to that family and that as the family pension was a meagre one the family found it extremely difficult to get on. Since the authorities had considered the family indigent on the death of Shri Krishnan even though Sasidharan was already employed and had extended employment assistance to Sasikala, then on the death of Sasidharan, especially, after the marriage of Sasikala the authorities should have taken into account the financial distress to which the family was driven to while considering the request of the applicant for

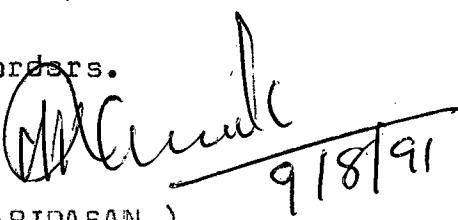
[✓]

compassionate appointment. Though in the reply statement the respondents have contended that the Committee had taken into account the changed circumstances also while disposing of the representation the Annexure-I order does not reflect such a consideration. In the Annexure-IV dated 6.4.1989 it was stated that though her request for appointment on compassionate grounds was considered by the Circle High Power Committee, the request could not be accepted. No reason as to why the request could not be acceded to, was it on account of the comparatively limited scope of employment under compassionate grounds and the large number of applicants or because the condition of the applicant's family was considered to be not indigent has not been stated. In Annexure-VI order dated 16.2.1990 also what was stated was that the Committee considered that the decision taken earlier did not require any modification as no fresh circumstances warranting a change of decision was observed by the Committee. Similarly, in Annexure-VIII letter addressed to the mother of the applicant, apart from stating that the Directorate has rejected the request for employment assistance to the applicant, the grounds on which the applicant was found not entitled to the benefit has not been stated. The applicant and her mother had repeatedly highlighted the indigent state to which their family was reduced on account of the death of Sasidharan who was looking after them and also on account of Sasikala going out of family by marriage. Though administrative orders cannot be expected to be like judgements of Courts discussing the various aspects in detail, yet the authority

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vested with power to take a decision is expected to state the reason for the decision in their order. We are of the view that the impugned orders excepting Annexure-II do not disclose the grounds on which the request of the applicant was turned down. Though Sasikala was on the basis of her declaration expected to render assistance to the family of deceased Shri Krishnan consisting of the applicant and her mother, since she has by marriage, become a member of another family especially being a woman, her freedom and capacity to render such assistance might have been reduced considerably. The respondents while considering the merits of the applicant's claim for employment assistance on compassionate ground should have adverted to this changed circumstance. Therefore, we are of the view that the respondents have to be directed to re-consider the merits of the claim of the applicant for employment assistance on compassionate grounds in the light of the above observations.

6. In the result, the application is allowed in part, The impugned orders at Annexure-I, IV, VI and VIII and set aside and the respondents are directed to consider the case of the applicant for appointment on compassionate grounds in the light of the observations made in the foregoing paragraphs, to take a decision and to communicate the same to the applicant within a period of 2 months from the date of communication of this order.


(AV HARIDASAN)
JUDICIAL MEMBER

trs

9-8-1991


(SP MUKERJI)
VICE CHAIRMAN
9.8.91