

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 231 OF 2008

Tuesday, this the 9th day of March, 2010.

CORAM:

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

Abdul Razak K.M.,
S/o. N. Mohamed,
Kalliyammakada House,
Kadamath, Lakshadweep

... Applicant

(By Advocate Mr. R. Sreeraj)

versus

1. The Administrator, Union Territory
of Lakshadweep, Kavaratti.
2. The Director of Agriculture,
Union Territory of Lakshadweep,
Kavaratti.
3. Safiyabi, W/o. Late Nallakoya P.P.,
Chettapokada, Androth.
4. Khyroosabi,
W/o. Late P. Mohammed Rafeeqe,
Alipura, Kadamath.
5. Bambathibi, W/o. Late P.V.P. Hassan,
Mathil, Androth.
6. Attabi, W/o. Late P. Sayed Mohamed,
Patakalkat, Androth.

... Respondents

(By Advocate Mr. S. Radhakrishnan (R1&2)
Advocate Mr. C.S. Abdul Sammad (R3-6))

The application having been heard on 09.03.2010, the Tribunal on the same day delivered the following:

ORDER

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

The applicant, son of a deceased Government employee, died on 29.06.2002 while working as Field Instructor in the Agricultural Department of



Lakshadweep Administration, filed this original application for a direction to the respondents to consider the applicant for appointment under the Compassionate Appointment Scheme. The applicant also prays for a declaration that he is entitled for such appointment under the scheme in comparison to the other applicants who applied under the said scheme.

2. The original application has been admitted by this Tribunal and notice ordered. In pursuance to the notice ordered the official respondents filed the reply statement. The stand taken in the reply statement is that the application of the applicant has been considered along with other applications. There were 120 candidates for compassionate appointment and all these applications were considered by the Committee constituted for that purpose. Further, it is stated that the Committee had considered the income status, size of the family and also the indigency position of each and every family of each applicant who applied for compassionate appointment and out of the total applications, the additional respondents No.3 to 6 were also considered and the application of respondents No.3 to 6 were allowed on the basis of the financial status and also considering all other parameters for consideration of such applications and the application of the applicant has been considered with the income certificate which he produced and considering the terminal benefits received by the family and also the size of the family. ^{At} ~~On~~ the first meeting held for consideration of the application for compassionate appointment, the case of the applicant has not been taken as entitled for such appointment at that time. However, it is stated further that the case of the applicant will be considered in subsequent meetings based on the materials which he has placed.



3. After receipt of the reply statement, the applicant had filed a rejoinder resisting the stand taken by the respondents in the reply statement and further stated in paragraph 4 of the rejoinder filed on behalf of the applicant that the Committee has not conducted any concrete enquiry regarding the financial status of the applicants which are allowed by checking up the income of the families of such applicants, as claimed by them. Simply the Committee has considered the statement they have given. If so, on the part of the Committee there was a failure to conduct a concrete enquiry regarding the statement of income of each family of each applicant. Further it is stated in the rejoinder that the approach now made by the Authorities is with a preconceived notion to avoid the applicant from getting appointment under the Scheme as they have not considered the financial position of the family including that of the liability of the family after the death of the employee especially the expenses to be met by the family for the treatment of the mother of the applicant.

4. We have heard the counsel appearing for the applicant, Mr. R. Sreeraj and also Mr. S. Radhakrishnan, counsel appearing for the official respondents and we have perused all the documents produced before this Tribunal in the original application and also the original Scheme of the Compassionate Appointment issued by the Government of India and applicable to the Lakshadweep Administration. In the light of the factual position canvassed before us by the counsel appearing for the parties, the question to be considered is whether the respondents are justified in not considering the application of the applicant for giving appointment under the Compassionate Appointment Scheme or not. The fact that the death of the father of the applicant and other family position of the applicant regarding the size of the family, membership of the family and income are not disputed




before this Tribunal. At the same time, the counsel for the applicant submits that the mode of assessment of the financial position of each and every applicant who filed application under the Scheme is not in accordance with the objects of the Scheme and the Committee had not chosen to make enquiries regarding the statements given by the applicants for the purpose of getting compassionate appointment under the Scheme. Especially counsel for the applicant contends that only because of the statement given by each applicant, as the applicant derived the information through the Right to Information Act, it is not proper for the Committee to come to a conclusion that respondents No.3 to 6 are entitled or eligible for such appointment and at the same time the applicant's case has been rejected. To the above contention relying on the reply statement, counsel for the respondents reiterated the stand taken in the reply statement and that the entire Minutes of the Committee which considered the applications for compassionate appointment would show that the Committee had considered each and every aspects of each and every application in the matter of the family pension, income position and other such family backgrounds of such applicant and hence the selection made or the appointment now given by the Committee to the other applicants, the additional respondents, is justifiable and this Tribunal may not be justified in interfering with such action taken by the respondents.

5. We have considered the issue in detail and we have seen as per the reply statement, out of 122 applications, the respondents considered four applications as eligible or entitled for appointment and that too depends on the family position and financial status of each and every family and as far as the applicant is concerned, his family has received terminal benefits of more than Rs.2,92,000/- and the size of the family also has been considered. The family

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consists of the mother of the applicant, daughter of the deceased employee and the mother of the deceased employee. It has come out in evidence that the daughter of the deceased i.e., sister of the applicant is given in marriage to a Government servant who is a permanent employee. On consideration of these aspects, we see that present action taken by the respondents is not malicious or it cannot be considered as against the objects promulgated by the Government for compassionate appointment. That apart, the claim for the compassionate appointment cannot be claimed as a matter of right but it can be considered only as a concession permitted to a family member of a Government servant dying in harness or retired on medical grounds. Due to the untimely death of the employee, the family may face financial stringency and to recoup the financial stringency, this scheme is adopted and employment is given under the said scheme by the Department. If so, we are of the view that at present we feel the action of the respondents are justifiable and that apart, it is also to be remembered that the Department is willing to consider the case of the applicant in future time for compassionate appointment considering the situations prevailing at that time and family background. If so, we see that the present O.A. is devoid of any merit. It stands dismissed without any order as to cost.

(Dated, the 9th March, 2010.)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE K.THANKAPPAN
JUDICIAL MEMBER