

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 252/09

Dated this the 12th day of March, 2010

C O R A M

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

S. Sreekanth
Sree Nilayam
Edayricaapuzha P.O.
Kangazha Kottayam

Applicant

By Advocate Mr. Vishnu S. Chempazhanthiyil

Vs.

1 The Superintendent of Post Offices
Changanassery Division
Changanasseery -686 101

2 The Chief Postmaster General
Kerala Circle
Thiruvananthapuram.

3 Union of India represented by the
Director General of Posts
Department of Posts,
New Delhi.

Respondents

By Advocate Mr. Sunil Jacob Jose, SCGSC

The Application having been heard on 5.3.2010 the Tribunal
delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is the eldest son of late A.S. Sujananda Das who died in harness on 14.12.2003, while working as SPM, Nedumkunnam. The family of the deceased employee consists of the widow and two sons. According to the applicant, his father was the sole earning member in the family and an education loan of Rs. 2 lakhs and a house loan of Rs. 62,000/- from Grama Vikasana Bank were outstanding, they had borrowed considerable amount from various persons which had to be settled. The entire retiral benefits were utilised for clearing the dues. In such circumstances, the applicant's mother submitted a representation for compassionate appointment of the applicant (A-1). The applicant is challenging the denial of compassionate appointment on the above grounds as well as denial to consider him for compassionate appointment for three years.

2 The respondents *prima facie* opposed the O.A on the ground of limitation. The rejection order is dated 22.12.2006 which was challenged by the applicant only on 1.5.2009..

3 They submitted that compassionate appointment cannot be claimed as a matter of right, it is limited to 5% of the direct recruitment vacancies arising in a year. They further submitted that the case of compassionate appointment of the applicant was considered by the Circle Relaxation Committee based on Apex Court directions. The Committee has made comparative study of all the cases and found that while the family of the deceased employee consisted of three

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members, there is no unmarried girl in the family and the annual income is comparatively high. Hence, they came to the conclusion that the family is not in indigent circumstances, there were more deserving cases and hence in terms of comparative merit his case did not warrant consideration vis-a-vis the vacancies available.

4 The applicant filed rejoinder contending that the Circle Relaxation Committee had not properly assessed the financial condition of the family, they have not taken all assets and liabilities, the educational loan of Rs. 2 lakhs has been ignored.

5 The respondents filed an affidavit as directed by the Tribunal on 17.12.2009 stating that the Circle Relaxation Committee which met on 28.9.2005 considered 51 cases in all, Smt. M. Janaki & Shri S. Syamaraj were approved for appointment as Postman based on relative indigence.

6 We have heard learned counsel for the parties and perused the records produced before us.

7 A perusal of the CRC minutes show that on 28.9.2005 when CRC met, 51 cases were considered. These were grouped into two, as Part-I and Part-II. The 19 cases included in Part-I were considered earlier to 2005 and was kept pending for want of vacancies. The applicant's name figures at Sl. No. 17 in the Part-I list. The CRC which met on 28.9.2005 approved one case from the Part-I list for selection as Postman, against the only two vacancies made available under the 5% DR quota of Postmen for 2005. Out of the 51 candidates screened by the Committee, 12

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were wards of Sub Postmaster/Postal Assistants, while the rest were the children of Postmen and Group-D employees. Out of the 2 selected candidates for the post of Postman, the first one is a widow of a Postman and the other son of a Wash boy in the departmental canteen. Smt. M. Janaki widow of late A. Raman Postman gets a family pension of Rs. 1275/- and received Rs. 96,075/- as terminal benefits. However, out of the 4 dependents, 3 are unmarried daughters, two of them being minor. She resides in her own house, but has no landed property. The second selected candidate from Part-II list, Shri S. Syamaraj has 4 dependent members, with one unmarried sister. His mother gets a family pension of Rs 2310/- plus DA and got Rs. 88,204/- as terminal benefits. He lives in their own house, but does not have any landed property.

As compared to these two selected candidates, whose penurious condition was certified by the Committee, the applicant is found to be much better placed financially. His family is small in size, with only three members and no unmarried daughter. His mother gets a family pension of Rs. 2750/- plus DA. The terminal benefits amounted to Rs. 3,24,442/-. He has Rs. 33,000/- as annual income from other sources. He lives in his own house and family has 33 cents of landed property. The applicant's counsel strenuously argued about the failure of the respondents to take into account the liability of Rs. 2 lakhs taken as student loan and Rs. 62,000/- housing loan.. The scheme of education loan is envisaged as a long term one with a view to enable the student to pay back the loan in easy installments when he is gainfully employed. It cannot therefore be counted as an immediate liability of the family.

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8 Appointment on compassionate ground is intended to render immediate assistance to the family of the Govt. Servant who dies in harness or retires on medical grounds leaving his family in financial crisis. Appointment on compassionate grounds limited to 5% of direct recruitment vacancies is offered only to the most deserving cases, as a relief against destitution. In the case on hand, it may be true that the widow is getting an annual income of Rs. 33,000/- from other sources of income in addition to the family pension which may not be sufficient for a family consisting of three members, including an engineering student. Still, it cannot be said that the family is in financial straits. As there was only limited number of vacancies and more claimants, the Circle Relaxation Committee considered all the cases and made the recommendation on relative merit. It is not the intention of the Government to ensure employment for one member of the family of all the deceased employees.

9 In view of the above, we are of the opinion that there is no legal infirmity in the action of the respondents in not approving the case of the applicant for appointment on compassionate grounds under relaxation of Recruitment Rules. The O.A is accordingly dismissed. No costs.

Dated 12th March, 2010

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K. NOORJEHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER