

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.292/04

Tuesday this the 1st day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Jaison Koshy,
Income Tax Assistant,
Office of the Additional Income Tax,
Thiruvalla.

Applicant

(By Advocate M/s.A.M.Thomas & Mr.Suresh Jose)

Versus

1. Union of India, represented by
the Secretary to the Ministry of
Finance, New Delhi.
2. The Chief Commissioner of Income Tax,
(Kerala Region) Ernakulam.
3. The Assistant Commissioner of Income Tax,
Thiruvalla.
4. P.S.Victor,
Income Tax Assistant,
Commissioner of Income Tax Appeal,
C.R.Building, Cochin - 18.
5. Abhilash R Nair,
Income Tax Assistant,
Circle I, Public Library Buildings,
Sastry Road, Kottayam.

Respondents

(By Advocate Mr.K.R.Rajkumar,ACGSC [R1-3])

This application having been heard on 1st June 2004 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

When the applicant's father died while in harness the
applicant claimed appointment on compassionate grounds and vide
letter dated 19.12.1997 (Annexure A-1), he was informed that his
claim for appointment as U.D.C could not be acceded to and that
if he was willing he would be appointed as a L.D.C. Accepting
the offer the applicant got appointed as L.D.C with effect from
17.4.1998. Now under the cadre restructuring the applicant has

become a Tax Assistant. In between the respondents 4 & 5 were appointed on compassionate grounds on 5.6.2001 and 6.6.2001 respectively but directly as U.D.Cs. The applicant who was qualified to be directly appointed as U.D.C like the respondents 4 & 5 happened to be placed below the respondents 4 & 5 in the gradation list of Tax Assistant because he was appointed as L.D.C and they as U.D.Cs. Alleging that this was discriminatory and that he came to know of the appointment of respondents 4 & 5 only recently the applicant has filed this application seeking a direction to respondents to place the applicant's name above the 4th and 5th respondents in the gradation list.

2. Shri.Rajkumar,ACGSC who took notice on behalf of the respondents filed a statement opposing the admission and grant of reliefs as sought. We have perused the application and the annexures as also the statement filed and have heard Shri.A.M.Thomas learned counsel of the applicant and Shri.Rajkumar,ACGSC for the respondents. Shri.Rajkumar argued that the applicant does not have a valid or subsisting cause of action which would enable him to maintain this application for two reasons i.e. one, the applicant has no vested right to claim appointment to a higher post of his choice on compassionate grounds and the next that the claim is barred by limitation. We find considerable force in the objection raised on behalf of the respondents. Compassionate appointment cannot be claimed as of right and a compassionate appointee has no right to claim that he should be given a post of his liking. The scheme for employment assistance on compassionate grounds was evolved to relieve the families of Government servants dying unexpectedly in harness from extreme poverty and indigence. It was not evolved for

giving appointment to members of the families of Government servants dying in harness, jobs befitting their status and qualification. The applicant was very clearly informed that it was not possible to give him appointment as U.D.C at that time. If he was willing and interested he could be appointed as L.D.C. He without any reservation accepted the offer and joined service as L.D.C in the year 1998. Not only that the applicant had no right to claim appointment on the post of U.D.C, he having accepted appointment as L.D.C in 1998 has at this distance of time cannot be permitted to take the issue. That respondents 4 & 5 were in 2001 directly appointed as U.D.Cs does not give rise to any cause of action to the applicant. The claim of the applicant for a direction to the official respondents to place the respondents 4 & 5 below his name in the gradation list of Tax Assistant is misconceived because as U.D.Cs the 4th respondent and 5th respondent have got to be placed above the applicant who was only an L.D.C.

3. In the light of what is stated above finding no valid or subsisting cause of action for the applicant the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

(Dated the 1st day of June 2004)


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN