

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 295 of 2013

Wednesday, this the 28th day of January, 2015

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member

Ajay Joseph Chacko,
Nishanth, Kottiyam P.O.,
Kollam – 691 571.

..... **Applicant**

(By Advocate – Mr. A. Jayasanker)

V e r s u s

1. Union of India,
represented by the Secretary,
Ministry of Personnel, Public Grievances and Pension,
New Delhi 110 001.

2. Indian Audit and Accounts Department,
Represented by the Principal Accountant General,
(Social and General Sector Audit), Kerala,
Thiruvananthapuram – 695 001.

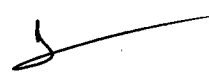
..... **Respondents**

(By Advocate – Mr. K.I. Mayankutty Mather)

This application having been heard on 4.12.2014, the Tribunal on 28.01.2015 delivered the following:

ORDER

Applicant is aggrieved by denial of his request by the respondents for appointment on compassionate grounds. His father was a Group-B Officer in the office of the respondent No. 2, died on 15.10.2009 after having been in service around 38½ years. At the time of the death of his father applicant was studying for MBA in the United Kingdom. When he came to India in connection with his father's death he submitted an application for



employment assistance on 11.10.2010 in Annexure A2 proforma. However, his application was rejected by the respondents vide Annexures A4 and A5 communications. In the present OA applicant has sought for the following reliefs:-

- “A) issue an order quashing and setting aside Annexures A4 and A5;
- B) Issue an order directing the 2nd respondent to extend employment assistance to the applicant under Annexure A1 Scheme;
- C) in the alternative issue a direction to the 2nd Respondent to consider Annexure A2 application in the light of Annexure A3 report afresh and pass orders thereon in accordance with law;
- D) Issue such other orders and directions as are deemed fit in the facts and circumstances of the case.”

2. In the reply statement respondents say that immediately after the death of the applicant's father, family of the deceased had been given the following terminal benefits, excluding GPF:-

1. DCRG	Rs. 10,00,000
2. Leave Encashment	Rs. 3,38,460
3. CGEIS	Rs. 5,000
4. DLIS (Deposit Linked Insurance Scheme)	Rs. 60,000
Total	Rs. 14,03,460

3. Apart from that, the credit balance of Rs. 2,18,531/- in the GPF account was paid to his wife and son in equal shares and a family pension at the rate of Rs. 13,325/- (enhanced rate) per month plus dearness relief has also been authorized to his wife Smt. Joyce Chacko from 16.10.2009 to 15.10.2019 and at the rate of Rs. 7,995/- (normal rate) per month from 16.10.2019 plus admissible relief on pension. The family is presently receiving family pension of Rs. 25,318/-. Apart from that the family owns 70 cents of land at Kottiyam near Kollam. On receipt of Annexure A2

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application, a Welfare Officer conducted an inquiry regarding the financial position of the family and had submitted Annexure A3 report. A departmental screening committee constituted under the provisions of Annexure A1 scheme had carefully considered all aspects of the case of the applicant including the extent of terminal benefits received by the family of the deceased. The committee arrived at the conclusion that the applicant does not deserve or require any assistance by way of compassionate appointment. This decision was communicated to the applicant as per Annexure A5 letter. Hence, the respondents pray for rejecting the prayer in the OA.

4. Heard both sides. Mr. A. Jayasanker, learned counsel for the applicant and Mr. Vineeth Komalachandran representing Mr. K.I. Mayankutty Mather for the respondents appeared for the parties. Mr. Vineeth Komalachandran relied on *Umesh Kumar Nagpal v. State of Harayana & Ors.* - JT 1994 (3) SC 525, *Union of India & Anr. v. Shashank Goswami* - (2012) 11 SCC 307, a Kerala High Court decision in *Bharath Petroleum Corporation Limited v. T. Padmakumari Amma* - 2007 (1) KLT SN 51 and a decision of this Tribunal in *Amla R. v. Union of India & Ors.*, dated 28.1.2013 in OA No. 476 of 2012.

5. Relying on Annexure A1 scheme for compassionate appointment under the Central Government issued by the DoP&T on 9.10.1998 Shri Jayasanker strongly assailed the reasonings given by the respondents in the impugned communications i.e. Annexures A4 & A5 rejecting the applicant's request for compassionate appointment. Shri Jayasanker submitted that the



reason pointed out by respondents that the application for appointment on compassionate ground was made only on 11.10.2010 i.e. nearly one year after the death of the applicant's father is without any merit because paragraph 8 of the Annexure A1 scheme enables consideration of applications for appointment on compassionate grounds even in cases death of the Government servant took place much earlier i.e. five years or so. He further submitted that even though paragraph 12 in Annexure A1 scheme prescribes the procedure of a Welfare Officer meeting the members of the family immediately after the death and to advice and help them in getting appointment on compassionate grounds, no such procedure was followed by the respondents. Only after the applicant making Annexure A2 application for appointment on compassionate grounds, a Welfare Officer visited the applicant's family and submitted Annexure A3 report. Referring to Annexure A3 report he submitted that the deceased Chacko had two wives Smt. Joyce Chacko and Smt. Jolly Daniel and that the latter was not legally wedded to him. It is further stated in Annexure A3 that the deceased D. Chacko had two children born out of Smt. Jolly Daniel and hence the death gratuity due to the heirs were disbursed in equal shares i.e. the applicant and his mother and the two minor children i.e. Ajith Chacko and Anjali Chacko born out of Smt. Jolly Daniel.

6. Smt. Vineeth Komalachandran learned proxy counsel for the respondents submitted that the financial background of the applicant immediately after the death of his father was not in a penurious condition. Hence applicant was not entitled to appointment on compassionate grounds



for tiding over the financial difficulties caused due to the death of the breadwinner. Shri. Vineeth referring to the decisions of Apex Court in *Umesh Kumar Nagpal (supra)*, *Shashank Goswami (supra)* and other decisions mentioned above submitted that the applicant's family was not in a penurious condition even after the death of Shri D. Chacko.

7. On going through the records it is quite evident that the applicant's mother is in receipt of nearly Rs. 25,000/- per month as family pension which she will receive at the same rate till 2019. The other retiral benefits admittedly received by the family also are not too small amounts to be ignored. Even at the present rate of money value, a family pension of Rs. 25,318/- per month cannot be said to be insufficient for the livelihood of the widow. The applicant, though technically a dependent of his father, appears to be a well qualified person who is likely to get employment on account of his high educational qualifications obtained from abroad. Even though the applicant's prospects elsewhere is not a criteria for consideration of his request for compassionate appointment under Annexure A1 scheme, the financial condition of the family of the deceased does not appear to be warranting appointment on compassionate grounds.

8. Considering the totality of the circumstances of this case, it is evident that the applicant's family is not in a penurious situation or destitution even after the death of his father. As observed in *Umesh Kumar Nagpal's* case (*supra*) as well as in *Shashank Goswami's* case (*supra*), appointment on compassionate grounds is not a regular mode of recruitment to the Government service. The Constitutional scheme of public employment

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envisaged in Article 16 of the Constitution contemplates public employment by a process of recruitment which accords equality of opportunity for all citizens. Nevertheless, appointment on compassionate grounds, as a departure from the fundamental right for equality in the matter of public employment under Article 16 of the Constitution, has been recognised only as a measure to provide succour to the families of deceased Government servants to prevent them from falling in to vagrancy and destitution on account of the sudden cessation of income from the sole bread winner. At any rate, in this case, the financial position of applicant's family can never be said to be in such a situation. Therefore, this Tribunal is of the view that the reasons stated in the impugned communications rejecting the applicant's request for appointment on compassionate grounds does not call for any interference by this Tribunal.

9. Hence, the Original Application is dismissed. No order as to costs.


(U. SARATHCHANDRAN)
JUDICIAL MEMBER

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