

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 296 of 2006

Wednesday, this the 11th October, 2006

C O R A M :

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

1. Annamma Paul,
W/o. Late N. Balraj,
Residing at C-9, P&T Quarters,
Kesavadasapuram,
Thiruvananthapuram : 695 004

2. Nevin Paul,
S/o. Late N. Balraj,
Residing at C-9,
P&T Quarters,
Kesavadasapuram,
Thiruvananthapuram : 695 004

... Applicants.

(By Advocate Mr. Sasidharan Chempazhanthiyl)

v e r s u s

1. Senior Superintendent of Post Offices,
RMS 'TV' Division,
Thiruvananthapuram,

2. Chief Postmaster General,
Kerala Postal Circle,
Thiruvananthapuram.

3. Circle Relaxation Committee,
Kerala Postal Circle,
Thiruvananthapuram.

4. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.

... Respondents.

(By Advocate Mr. P.M. Sajl, ACGSC)

The Original Application having been heard on 11.10.2006, this
Tribunal on the same day delivered the following :

ORDER
HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER


The applicants, wife and son respectively of Late N. Balraj, who was working as Sorting Assistant - BCR, RMS, Trivandrum and who died while in service on 03.05.2004 have approached this Tribunal seeking inter alia the following relief(s):-

(a) Direct the respondents to reconsider the claim of the applicants in the light of the relevant facts and in accordance with the scheme for employment assistance.

(b) Declare that the 2nd applicant is entitled to be granted employment assistance and direct the respondents to consider the 2nd applicant for compassionate appointment.

2. The Circle Relaxation Committee which earlier considered the case of the applicants in its meeting held on 28-09-2005 did not recommend the case on account of the following reason, vide the Impugned order dated 10th March, 2006 (Annexure A-8).

"Appointment on compassionate grounds is intended to render immediate assistance to the family of Government Servant who dies in harness leaving his/her family in financial crisis. Further, it is not intended to ensure employment for each and every member of the family. Consequently it becomes essential to ensure that only more deserving cases are approved as per the purpose stipulated for the scheme of such compassionate appointments. The Supreme Court has also observed that the only grounds which can justify the compassionate employment is the penurious condition of the deceased family and it should be offered only as a relief against destitution. In this case, the family is not in indigent circumstances." (Emphasis supplied)



3. When the case came up for hearing, the respondents were directed to furnish a statement containing the details considered by the Circle Relaxation Committee on the basis of which the Committee had arrived at the above conclusion in the case of the applicant. And promptly, the same had been furnished by the counsel for the respondent. A perusal of the same shows that the amount of terminal benefits stated to have been made available to the family of the deceased government servant was taken as Rs 3,99,842/- and as regards residence, it has been indicated "P & T Quarters". This amount has been arrived at as under:-

DCRG Rs :	3,48,909/-
G.P.F. Rs :	1,169/-
CGEIS Rs :	49,764/-

Total Rs :	3,99,842/-
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4. On tallying with the DCRG sanction letter, vide Annexure A3 order dated 06.07.2004 It is observed that the total DCRG sanctioned for payment was Rs. 3,47,909/- of which, Government Dues to the tune of Rs. 7,641/- had been adjusted and in addition, a sum of Rs. 54,311/- had also been retained towards revenue recovery. Again, from Annexure A/23 certificate issued by the Postal, Telecom, BSNL Employees' Cooperative Society Ltd., No. 1940, It is evident that a sum of Rs 1,57,644/- has been received by the said Institution from the D.C.R.G. recovery of Late Balraj on 21.07.2004. Thus what was paid to the family from out of the DCRG works out to Rs 1,29,313/- (which includes a sum of Rs 1,000/- initially retained as per the sanction order dated 06-07-

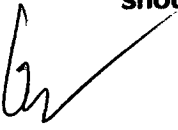


2004). Thus, there is a big gap between the DCRG received by the family of the deceased and the amount taken into consideration by the C.R.C.

5. The scheme of compassionate appointment, a benevolent provision introduced in 1958, inter alia provides as under:-

"An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and essential needs of the family etc.," (Emphasis supplied)

6. The above provision thus makes it imperative for the authorities to take into account the **liabilities of the family of the deceased** while making "a balanced and objective assessment of the financial condition of the family". In the instant case, the applicant has itemized certain financial liabilities vide Annexure A-6. (of them, of course, while the first item has already been taken into account as discussed in the preceding paragraph the amount paid out of DCRG to the elder daughter, vide the last item has to be necessarily ignored as the same cannot be construed as liability). The balance constitutes a sum of Rs 70,000/-. If these were the liabilities of the family even during the life time of the deceased government servant, or immediately thereafter, these liabilities should also be taken into account. Similarly, in so far as residence is concerned,



perhaps there are only two categories, i.e., own house or rented. The fact that the applicants reside in P & T Quarter has to fall under any one of these two categories and obviously, the same is under the category of 'rented accommodation'. It is not known whether C.R.C. had taken into account the above aspect.

7. From the documents it is clear that the C.R.C. has been provided with incorrect and incomplete details which had its own impact in the final decision arrived at by the C.R.C. Consequently, the case needs reconsideration.

8. In addition, recently, the Government has liberalized the extent of vacancies that would be allotted for compassionate appointment. While earlier, it was 5% of the direct recruit vacancies subject to optimization of direct recruitment as provided for vide DOP & T Instructions dated 16th May, 2001, by OM dated 14th June, 2006, the same has been now modified as under:-

"While the existing ceiling of 5% for compassionate appointment may not be modified but the 5% ceiling may be calculated on the basis of total direct recruitment vacancies for Group 'C' and 'D' posts (excluding technical posts) that have arisen in the year. Total vacancies available for making direct recruitment would be calculated by deducting the vacancies to be filled on the basis of compassionate appointment from the vacancies for direct recruitment in terms of existing orders of optimization."

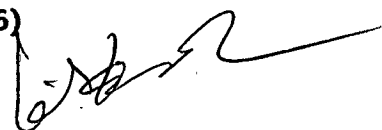
9. Thus, according to the counsel for the applicant, the above order would ease to some extent the acute 'vacancy problem' of compassionate appointment and if the above provision is also taken into consideration along with the actual

financial condition of the family after taking into account the liabilities as discussed above, there is a likelihood of the applicants' case coming within the category of "more deserving case".

10. The error in earlier decision being obvious, inasmuch as it has taken an incorrect figure of terminal benefits without taking into account the liabilities, this error has to be rectified and while so rectifying the latest provisions relating to the vacancies apportioned for compassionate appointment should also be taken into account. Such a consideration be given in the next C.R.C meeting scheduled by the Department. In the event of the case of the applicant coming within the "deserving net", but compassionate appointment could not be offered in view of non availability of vacancies, the C.R.C. shall consider the case on the subsequent two occasions and if in comparison with other candidates, the case of applicant No 2 is more deserving, he may be offered the appointment. If the case of the applicants comes within the deserving category, the applicant be informed accordingly. If not, the details on the basis of which his case has not been found within the 'deserved category' should be intimated to the applicants by a reasoned and speaking order. Ordered accordingly.

11. With the above directions, the OA is disposed of. No costs.

(Dated, the 11th October, 2006)



K B S RAJAN
JUDICIAL MEMBER

CVR.