

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 310 of 2010
This the 17th day of August 2011

K.G.Sooraj, S/o late K.S.Gopalakrishnan
Kavalathu Thundiyl House, Poonithura,
Ernakulam District - 682 308.

Applicant.

(By Advocate Mr. C S G Nair)

Vs

- 1 The Chief Commissioner of Central Excise & Customs,
Central Revenue Buildings, I.S. Press Road, Cochin - 18.
- 2 The Commissioner of Central Excise & Customs,
Central Revenue Buildings, I.S. Press Road, Cochin - 18.
- 3 Chairman, Central Board of Excise & Customs
North Block, New Delhi - 110 001.
- 4 Union of India, Represented by its Secretary,
Department of Revenue, North Block, New Delhi 110 001

Respondents.

(By Advocate Mr. M.K.Aboobacker, ACGSC)


(The Application having been heard on 18.2011. the Tribunal delivered the following)

O R D E R

HON'BLE Mrs.K.OORJEHAN ADMINISTRATIVE MEMBER

The applicant is aggrieved by the non-consideration and rejection of his request for compassionate appointment.

2 Brief facts of the case as stated by the applicant are that the father of the applicant who was working as Head Havildar in the Central Excise Department under the First Respondent expired on 02-04-2006 and left behind his widow and two sons. Applicant is the eldest son of the deceased. The mother of the applicant submitted application for



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compassionate appointment to her elder son, the applicant. The representation submitted by the applicant had been replied informing him that he could be considered for Group-D cadre as and when vacancy arise. The respondents vide communication Annx.A4 informed that the case is closed as no appointment could be offered for the last 3 years. It is submitted that vide DoPT OM dated 9.10.98 (Annx.A5) a scheme for compassionate appointment was formulated and the applicant is also entitled to be considered against the vacancies which occurred on account of promotion of Group-D employees to the cadre of LDC. Further the applicant, a qualified driver can also be considered for the post of Driver. It is further averred that family is heavily indebted and there is no earning member. The meagre amount of family pension is the only source of income for the family, therefore, rejection of his application for compassionate appointment is illegal and arbitrary. Therefore this OA.

3 Respondents have contested the OA. It is submitted that the quota fixed for compassionate appointment is 5% of direct recruitment vacancies arising in Group C and D posts. There were only one or two vacancies in Group-D cadre on their promotion/retirement. All such vacancies had also been taken in to consideration to derive 5% vacancies for compassionate appointment. It is also stated that the case of the applicant had been included in the panel continuously for 3 years but he could not be considered for want of sufficient vacancies during that period. As per the present norms adopted by the respondent department if appointment on compassionate grounds could not be granted within 3 years of empanelment, the name of such candidates would be removed from the list to enable the persons whose names are subsequently included to be considered. The applicant was informed accordingly.

4 Rejoinder was filed reiterating the facts stated in the O.A and further stated that the respondents have not followed the procedures as prescribed in Annx.A5.

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5 Additional replies were filed by the respondents to controvert the contention of the applicant in the rejoinder. It is submitted that the Administration constituted a Committee for considering compassionate appointments in the respondents department. They stated that the application submitted by the applicant alongwith others were considered thrice during the relevant period i.e 4/2006 to 4/2009 and the vacancy earmarked was filled up by giving appointment to the most deserving candidate as decided by the Committee. The vacancy position of Drivers during the period was also submitted. They have furnished a copy of the minutes of the meetings held during the relevant year. In compliance of a direction of this Tribunal the respondents have further produced the details of sanctioned and working strength of drivers and a copy of the promotion scheme of drivers in the Department.

6 Heard the learned counsel for the parties and perused the record as also the minutes of the meetings.

7 The Scheme evolved by the Government of India for consideration for appointment on compassionate ground to a family member of a Government servant dying in harness leaving behind the family in penury is to extend immediate relief to the family to face the sudden and unexpected economic hardship. There are other parameters like number of dependents, extent of liabilities, etc. In this case, the dependants are stated to be mother, and two sons. The Committee met from time to time and recommended most deserving candidates for appointment during the period and the case of the applicant could not be recommended on the relative merit of the candidates. The respondents have considered the applicant continuously for 3 years and there appears to be no delay on the part of the respondents in considering the application submitted by the applicant. The whole objective of granting compassionate appointment is to enable the family to tide over the sudden crisis and it is not meant to give employment to one member of such a family.

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8 It is not the case of the applicant that the Committee of Officers constituted for considering appointment on compassionate ground has not considered his case alongwith others. The counsel for the respondents submitted that they have considered the case of the applicant for 3 years i.e 4/06 to 4/2009 and more deserving candidate than the applicant have been offered appointment and his request was closed because of time limit.

9 In view of the facts and circumstances of the case, I am satisfied that the respondents had considered the case of the applicant as per the extant rules and because of availability of more personnel than the sanctioned post in Group-D cadre till June 2009, there was hardly any vacancy in Grade-D cadre against which he he could be offered appointment. There were more Drivers than the sanctioned strength in ordinary grade of Drivers too, so that no direct recruitment could be resorted to. Taking into account the fact that the case of the applicant had been given due consideration but the applicant could not come within the purview of deserving case, I am of the view that the OA laks of merit.

10 I, therefore, dismiss the O.A. No costs.

Date 17th August 2011


K.NOORJEHAN

ADMINISTRATIVE MEMBER

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