

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 316/2009

Dated this the 15th day of June, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

Anitha Suresh W/o late S. Suresh
residing at Karthiyel Cottage
Edappara, Morazha Post
Cannanore District.

Applicant

By Advocate Mr. T.C. Govindaswamy

Vs.

1 The Director
 Indian Institute of Petroleum
 Council of Scientific & Industrial Research
 Haridwar Road, Mohkampur
 Dehradun -248 005 Uttaranchal

2 The Controller of Administration
 Indian Institute of Petroleum
 Council of Scientific & Industrial Research
 Haridwar Road, Mohkampur
 Dehradun-248 005 Uttaranchal

3 The Joint Secretary (Admn)
 Council of Scientific & Industrial Research
 Anusandhan Bhavan
 No.2, Rafi Marg
 New Delhi-110 001

..Respondents.

By Advocate Mr. Sunil Jacob Jose, SCGSC

The Application having been heard on 7.6.2010 the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, widow of late S. Suresh, who was working as a Technical Officer-B under the respondents, has sought for a job under relaxation of recruitment rules. Her late husband met with an accident on 3.4.2002 and as a result of injuries expired on 16.4.2002. She is a B.Com graduate and at the time of death of her husband she was 35 years old. The applicant applied for appointment on compassionate grounds in the prescribed format on 4.7.2002. She was also called for personal discussions along with necessary documents in original. While so, she received Annexure A-7 letter intimating her that there are no vacancies and as the case was over 3 years old, her case was not considered fit for appointment. According to the applicant the Indian Institute of Petroleum is an Institute under the CSIR which is a Society registered under the Societies Registration Act XXI of 1860, it has a chain of 38 national laboratories/institutions including the one under the 1st respondent. Hence she filed this O.A to quash Annexure A-7 and for a direction to appoint her on compassionate grounds.

2 The respondents prima facie raised the question of jurisdiction of this Tribunal. On merits, they stated that compassionate appointment is not a right but it is a helping hand extended to the family of the Govt. servant from financial destitution and that it cannot be taken as granted. Her case was considered along with 19 other cases by the Appointment Committee in its meeting held on 12.1.2006 (R-1) which recommended three candidates for appointment to Group-D posts and the applicant to Grade-II Technician post subject to

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fulfillment of educational qualification prescribed under the Recruitment Rules.

3 The applicant filed rejoinder stating that there has been considerable delay in processing her application for compassionate appointment submitted well in time way back in 4.7.2002 and that the applicant attended whenever she was called for personal interview. Therefore, she reiterated that there was no delay on the part of the applicant and the Appointment Committee which met on earlier occasions had recommended her name but the respondents did not act on the same.

4 I have heard learned counsel for the parties and have gone through the documents produced before us.

5 As the applicant is permanently residing within the jurisdiction of the Ernakulam Bench of the Tribunal she can approach this Tribunal, under under Section 19 of the Administrative Tribunals Act, 1985 read with Rule 6 of the CAT Procedure Rules. Hence the objection raised by the respondents against jurisdiction of the Tribunal is dismissed.

6 The appointment on compassionate grounds is governed by the OM No. 14014/6/94-Estt (D) dated 9.10.1998 which is applicable to institutions under the ICAR also. As per the Scheme evolved under the above OM, the respondents have considered the case of the applicant along with other cases and she was selected for appointment to the post of Technician Gr. II. According to the respondents, the vacancies which were available for appointment under compassionate grounds were

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3 Group-D posts and 2 Technician posts, and the applicant was recommended for the Technician Grade-II post without noticing that she is a B.Com graduate. I am unable to accept the above contention of the respondents as the Committee's recommendation at Annexure R-1 dated 12.6.2006 reads as follows:

The Committee after considering the benefits (i.e. Death gratuity, insurance, leave encashment, pension, etc. admissible to the family of the deceased) and the liabilities left behind and circumstances of the family and the quantification worked out based on the standard qualification of liabilities and assets (copy enclosed) recommended following applicants for appointment on compassionate ground on the post as mentioned as under:-

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on the post of Group-II (Scale Rs. 3050-75-3950-80-4590) (2 posts)

Sl No	Name & Designation of the deceased employee	Name of the family member recommended	Relation with the deceased employee	remarks
1	Late Sh S. Suresh, Ex T.O.B Gr.III	Mrs. Anitha Suresh	Wife	Recommended subject to fulfillments of essential qualification for the post of Gr.I I(1) and/ or subject to relaxation of qualification from CSIR

It is seen that the Committee which scrutinised the cases and made its recommendations for taking the approval of the competent authority, had 5 members as against the 3 prescribed by DOPT vide 12 (c) of its OMNO. 14014/6/94-Estt (D) dated 9.10.1998. Par 12(b) of the OM supra is extracted below:

"12(b) The Welfare Officer in each Ministry /Department /Office should meet the members of the family of the Government in question immediately after his death to advise and assist them in getting appointment on compassionate grounds. The applicant should be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him."

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In tune with the instruction, she was called for a personal interview. Vide A-4 dated 26.6.2003, she was asked to submit all documents in respect of her age, caste /community and educational qualifications. After two levels of screening, first in person and later based on copy of graduation certificate called for vide A-4, and the recommendation of the Committee, seeking relaxation of educational qualification for Technician Gr.II post, I am shocked that the respondents now came up with a lame plea that copy of her graduation certificate was not placed before the Committee.

In fact educational qualification is used as a primary tool to segregate the cases for consideration, against Gr. D and Gr. C posts. The DOPT has also granted certain relaxation in educational qualification, in full for the widows for appointment against Gr.D posts and LDC posts. Para 6B(b) of DOPT OM supra is extracted below:

"Secretary in the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules in the case of appointment at the lowest level e.g. Group-D or Lower Division Clerk post, in exceptional circumstances where the condition of the family is very hard provided there is no vacancy meant for compassionate appointment in a post for which the dependent family member in question is educationally qualified. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the person concerned, if still unqualified are liable to be terminated.

NOTE: In the case of an attached/subordinate office the Secretary in the concerned administrative Ministry/Department shall be the competent authority for this purpose."

The recommendation of the Committee was accepted and approved by the Competent Authority on 9.3.2006. The applicant was not offered a letter of appointment, as CSIR did not grant relaxation of educational qualification, which was sought for, on the ground that

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the work of a Technician Grade-II is scientific and technical in nature. No attempt was made to explore the possibility of ex-changing the post of Technician Grade-II with an Administrative Assistant post both of which are in Group-C. There was no other candidate, who was in the list for a Group-C post in 2006.

7 By virtue of the facts above the inference is that the Committee knew fully well that she is a Commerce Graduate. Since she fulfills educational qualification for a Group-C post, the Committee was duty bound to record its recommendation for a Group-C post of Lower Division Clerk or Administrative Assistant, where Graduation in any subject will suffice, as her case was expected to be kept alive for 3 years as per DOPT's OM No. 14014/19/2002-Estt(D) dated 5.5.2003. Rule 7(e)& (f) of DOPT OM dated 9.10.1998 is extracted below :

7(e) Employment under the scheme is not confined to the Ministry/Department/Office in which deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.

(f) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department /Office to take up the matter with other Ministries /Departments /Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list..."

8 In this view of the matter, I hold that the ends of justice will be met if I quash Annexure A-7 order dated 30.11.2006 and direct the respondents to explore the possibility of locating vacancy of Administrative Assistant/Lower Division Clerk or any Group-C post in the Agriculture Ministry /Department/units of CSIR, anywhere in India, within the 5% quota for compassionate appointment scheme and consider



the appointment of the applicant on compassionate grounds, as she was recommended for appointment to a group-C post of Technician Grade-II by the Compassionate Appointment Committee constituted by the Indian Institute of Petroleum, Dehradun, one of the constituent institute of CSIR and approved by the Director. I order accordingly. Action as directed above, shall be completed within six months from the date of receipt of a copy of this order.

9 The O.A is allowed as above. No costs.

Dated 15th June, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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