

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.37/2002

Wednesday this the 22nd day of January, 2003

CORAM

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

M.M.Hidayathulla,
S/o A.Mohammed Ismail,
Extra Departmental Delivery Agent (As substitute)
Panmana E.D.S.O. residing at
Malamel Thekkathil,
Vadakkumthala East PO
Karunagappally,
Kollam District.Applicant

(By Advocate Mr. Shabu Sreedharan)

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1. Union of India, represented by
Secretary/Director General of Posts,
Ministry of Communications,
New Delhi.1
2. The Chief Postmaster General,
Kerala Region,
Thiruvananathapuram.
3. The Senior Supdt. of Post Offices,
Kollam Division,
Kollam.
4. The Sub Divisional Inspector of
Post Offices, Karunagappally Sub Divn.
Karunagappally.Respondents

(By Advocate Mr.K.Kesavankutty,ACGSC)

The application having been heard on 22.1.2003 the Tribunal on the same day delivered the following:

O R D E R

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

The applicant, who is the eldest son of one Shri. A. Mohammed Ismail who had been working as EDDA, Panmana EDSO w.e.f 1.5.1965, and has been working as a substitute EDDA has filed this application seeking to set aside Annexure A6 communication dated 17.12.2001 of the 3rd respondent informing the applicant's

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father in reply to his letter dated 5.12.2001, that his request for appointment of the applicant cannot be acceded to as the existing rules and instructions do not provides for appointment of substitute on regular basis and for a direction to the respondents to allow Annexure A7 representation of the applicant's father and to appoint the applicant as EDDA, Panmana on compassionate grounds. The facts of the case are stated as follows :-

2. The applicant's father commenced service as EDDA. Panmana w.e.f. 1.5.1965 and from 18.10.1999 onwards he had been continuing on medical leave as he was totally incapacitated from performing the duties and the applicant had been performing duties of EDDA as his substitute with the approval of the competent authority. The applicant is qualified to be appointed as EDDA. As the applicant's father was totally incapacitated, Annexure A5 certificate was issued by the District Medical Officer, Kollam declaring that he was incapacitated for further service of any sort. In spite of this the applicant's father was not discharged on medical invalidation and the applicant was not considered for appointment on compassionate grounds. Respondents went on keeping the applicant's father on medical leave. The applicant's father made a request for appointment of the applicant on compassionate grounds, which was turned down by Annexure A6 order. The request of the applicant made in Annexure A7 has not been considered. Therefore the applicant prays that the impugned order Annexure A6 be set aside and the respondents be directed to allow Annexure A7 representation and appoint the applicant on compassionate grounds.

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3. The respondents in the reply statement contend that the applicant's father has been discharged on superannuation w.e.f. 20.1.2002 immediately on receipt of Annexure A7 representation, that Annexure A5 medical certificate was never produced before respondents, that even when the applicant's father was asked to appear before the Medical Board, Kollam by letter dated 28.11.2000, he stated that after the expiry of the leave granted up to 12.12.2000, he would do whatever was needed, that he did not mention anything about the Annexure A5 medical certificate and that the claim for employment assistance on compassionate grounds is not sustainable.

4. I have carefully gone through the pleadings and material placed on record and have heard Shri Shabu Sreedharan, the learned counsel for the applicant and Shri K. Kesavankutty, the learned counsel for the respondents.

5. After hearing the counsel on either side, I find nothing wrong with the impugned order Annexure A6 by which the applicant's father was informed that rules do not provides for appointment of a substitute working on leave vacancy as regular EDDA. In his representation dated 5.12.2001 R3(e), the applicant's father had stated that considering him as dead, the applicant who is working as substitute may be appointed on regular basis. As the appointment on compassionate grounds would arise only after death or medical invalidation either of which was not occurred on the date of issue of Annexure A6, the respondents were right in telling the applicant's father that the

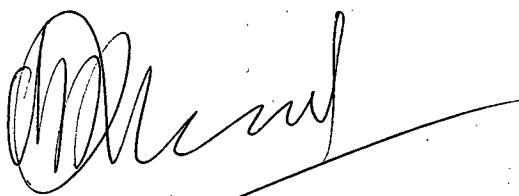


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request for appointment of the applicant who is a substitute on regular basis cannot be acceded to under the provisions in the rules. Therefore, I find no reason to interfere with Annexure A6 order. Regarding the prayer of the applicant to direct the respondents to allow Annexure A7 representation, I find that the request in Annexure A7 was only to discharge the applicant's father and shortly on receipt of the same, the applicant's father had been discharged on his superannuation on 20.1.2002. I also find that no case for compassionate appointment is made out in the averments in the OA. No circumstances warranting employment assistance seems to exist in the instant case.

6. In the light of what is stated above, the Original Application is dismissed. No costs.

Dated 22nd January, 2003.



A.V. HARIDASAN
VICE CHAIRMAN

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