

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 368/2010

Dated this the 14th day of June, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

P.Sushama, W/o late P.Sivadasan,
Panikkassery House, Feroke, P.O, Calicut

Applicant

(By Advocate Mr.T.C.Govinda Swamy)

Vs

- 1 Union of India represented by the Secretary, Govt. of India, Ministry of Finance, Department of Revenue Central Board of Excise and Customs, New Delhi.
- 2 The Secretary to the Govt, Ministry of Personnel, Public Grievance & Pension, Department of Personnel and Training, New Delhi.
- 3 The Commissioner, O/o the Commissioner of Central Excise, Cochin Commissionerate, Central Revenue Building, IS Press Road, Cochin - 682018.

Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The Application having been heard on 7.6.2011, the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is the widow of late P.Sivadasan who died in harness on 27.11.2005 while working as Senior Tax Assistant in the office of respondent department. The deceased is survived by his widow, one son and a daughter. Both the children are undergoing studies. The entire death

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benefits were utilised for repayment of educational loan taken by the deceased in respect of his children. The applicant passed SSLC and additional qualification as MS Office Certificate and Typewriting Higher. The applicant submitted her application for compassionate appointment on 16.12.2005. She submitted yet another representation on 25.4.2006 informing her acute financial stringency and a sympathetic consideration of her case. Office of the 3rd respondent vide letter dated 29.5.2006 assured that her case will be considered as and when vacancy arises. Thereafter a series of representations were addressed to the 3rd respondent which yielded no reply. She further represented to the 1st respondent. By letter dated 11.7.2007 the 3rd respondent informed that her appointment in any of the neighboring States is also not possible for want of vacancy. She further submitted that an application through the Member of Parliament which was recommended and forwarded to the respondents. The applicant received Annexure A1 letter stating that it is not possible to consider her case due to want of vacancy for a period of three years in accordance with DoPT order. Under RTI Act the applicant sought certain information to which she was informed that there was no vacancy for the years 2005-06 and 2006-07 for compassionate appointment and that there were only five vacancies for the year 2004-05 and 2 each for the years 2007-08 and 2008-09. She alleged that as per DoPT Memorandum dated 14.6.2006 the respondents are bound to calculate the total number of vacancies in Group 'C' and 'D' posts together that have arisen in the years to find the 5% vacancies earmarked for compassionate appointment. According to her the respondents have not examined her case on the basis of total number of vacancies that arose in Group-C and D cadres. Since no positive steps have been taken, she filed the O.A for appointment of the applicant on compassionate grounds either to a Group-C or Group-D post.

2 The respondents filed reply statement contending that the scheme of compassionate appointment envisages certain conditions, only 5%

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of the direct recruit vacancies in Group-C/Group-D is earmarked for compassionate appointment. Discrete inquiry was conducted about the educational qualification of the applicant as well as the economic condition of the family. After verification her name was included in the panel of pending applicants to be considered continuously for three years in meetings held to scrutinise the applications for compassionate employment. She was considered for compassionate appointment for the relevant period. It is stated that according to her educational qualification, she was eligible for Group-D cadre only. There was no vacancy in the Group-D cadre, she could not be offered appointment in Group-D cadre. It is also stated that they have taken initiative to find out vacancies from neighbouring commissionerates. The neighbouring Commissionerates had shown their inability to accommodate her due to non-availability of vacancy. In response to a clarification sought by the Tribunal it is submitted that 19 applications were received after the date of receipt of application from the applicant. The number of applications received by the respondent office were 6, 7 and 7 respectively for the years 2006, 2007 and 2008. The applications were considered by the respondents and 2 vacancies pending in the year 2007 and 2008 were filled as per the preferential claim in the year 2008. Thus all the vacancies up to 2008 have been filled up by giving appointment to 4 applicants as Tax Assistants. Since the applicant was not a Graduate, she could not be considered for appointment as Tax Assistant.

3 Heard learned counsel for the parties and perused the records.

4 The main contention of the applicants is that the respondents have not considered the applications submitted by the applicants. They asserted that there are vacancies available both in Group-C and D posts.

5 The respondent on the other hand contended that verification of the financial condition of the family etc. was carried out and that the name of the applicant was included in the list of applicants to be considered for compassionate appointment for three years during 2006, 2007 and 2008. In compliance with a direction of this Tribunal the respondents furnished a

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statement of sanctioned strength and working strength in Group-D cadre and their retirement/death details.. It is seen that from 2004 onwards the working strength is much higher than the sanctioned strength in Group-D cadre. Respondent No.1 has instructed respondent No.3 to adjust the excess manpower against future vacancies on account of promotion, superannuation, death etc. Even upto June 2009, there are 238 Group-D staff against the sanctioned strength of 230. The applicant is eligible for a Group-D post only as per her qualifications and there was no vacancy in Group-D cadre. In short, in the meeting of the Committee of officers for consideration of applications for appointment on compassionate ground held on various dates, though the applicant was included in the list she could not be appointed because of lack of vacancy in Group-D cadre. It is well settled that the object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency. Compassionate appointment cannot be granted after the lapse of a reasonable period and it is not a vested right which can be exercised at any time in future (See Umesh Kumar Nagpal V. State of Haryana and Ors (JT 19943)SC 525).

6 In this view of the matter, I hold that the applicant has been considered under the compassionate appointment scheme for three years as envisaged in the scheme and her case could not be approved because of want of vacancy and the fact that 5% posts are earmarked for compassionate appointment. Accordingly, the O.A is dismissed. No costs.

Dated 14th June, 2011



K. NOORJEHAN
ADMINISTRATIVE MEMBER

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