

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 371 of 2009

Monday, this the 09th day of November, 2009.

CORAM:

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

A.M. Sreekala,
W/o. Late P.S. Madhusoodhanan Pillai,
(Ex-Postman, Alappuzha Division),
Veliyil Puthenveedu, C.M.L-10, Cherthala,
Alapuzha District, Kerala ... **Applicant.**

(By Advocate Mr. A.F. Sebastian)

v e r s u s

1. Union of India, Represented by
The Secretary to the Government of India,
Ministry of Communications, New Delhi.
2. The Director General of Posts,
Department of Posts,
Dak Bhavan, New Delhi 110 011
3. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram
4. The Senior Superintendent of Post Offices,
Alappuzha District. ... **Respondents.**

(By Advocate Sunil Jacob Jose, SCGSC)

The Original Application having been heard on 05.11.09, this Tribunal
on ... 9-11-2009. delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

Compassionate appointment cannot be claimed as a matter of right.
However, within the provisions of the scheme, if an individual fulfills the
conditions for such appointment, the same may not be refused to him. In
addition, if in so considering the case, others less deserving or equally situated

are given appointment, on the basis of hostile discrimination, the individual could challenge the decision in rejecting his case. We have to examine this case from the above points of view.

2. Brief facts of the case in nutshell are as under:-

- (a) One Shri P.S. Madhusoodhanan, Post Man, Mayithara Market P.O., Alappuzha, died in harness on 04-09-2003, leaving behind, his wife (the applicant herein), one son of 10 years old, his aged and dependent father and mother. He had rendered total of 12 years and 11 months service and under normal course, had he been alive would be due for superannuation on 31st May 2024.
- (b) The terminal benefits available to the family in the wake of the demise of the said Madhusoodhanan were – (a) family pension of Rs 1712 + dearness relief, and Rs 85,018.
- (c) The family of the applicant has a house of value of Rs 40,000 and land to the extent of 22.5 cents. At the time when the applicant applied for compassionate appointment, she had indicated the liabilities as nil.
- (d) The circle relaxation committee considered the case of the applicant, and while recommending certain other individuals, on the basis of the pecuniary position of the family, in so far as the case of the applicant is concerned, the same has been rejected and this decision has been, through the impugned order dated 28-02-2006, vide Annexure A-2. The applicant has penned a representation indicating the extent of liabilities, vide Annexure A-2 and there has been no response to the same. It is

against the said rejection order that the applicant had moved this O.A. The applicant has stated in the said OA that there has been a delay of 400 days as on 01-06-2009 in filing the application, which was caused due to the extreme financial difficulties faced by the applicant during that period. Thus, M.A. 427/2009 has also been filed.

(e) Respondents have contested the O.A. stating that as per the committee, the applicant's financial position was that bad as to justify compassionate appointment and more deserving cases were available.

Annexure A-3 has been branded as 'an after thought'. They had also objected to the OA having filed belatedly.

(f) The applicant had furnished her rejoinder in which the applicant has contended that the mentioning of nil liabilities is more as a mistake as the same is not as per the ground reality. Again, for liquidating the loan, the family had to sell of the immovable properties.

3. Counsel for the applicant submitted that the case has not been considered by the Committee in a dispassionate manner. Nor have the respondents brought out as to who had been granted compassionate appointment and the comparative figures which would justify their action.

4. Counsel for the respondents has submitted that copy of the minutes of the circle Relaxation Committee is available for perusal.

5. Arguments were heard and documents perused. The minutes of the meeting have also been perused. At the outset, it is to be observed here that the authority or for that matter, the bonafide of the authority in conducting the



meeting and arriving at a conclusion is not questioned in this order, nor has the decision been looked at with suspicion. However, possible inadvertent error if any could be pointed out or the formula or norm if any that would have been followed could be commented upon; if the same be not in accordance with the spirit behind the very scheme of compassionate appointment.

6. A perusal of the documents reveals that there are about nine parameters for considering the case for compassionate appointments -

- (a) Family pension excluding relief
- (b) Amount of Terminal Benefits received
- (c) No. of dependents
- (d) No. of unmarried daughters
- (e) No. of minor children
- (f) No. of earning members in the family.
- (g) Other sources of income (annual)
- (h) Whether in own house or rented house
- (i) Details of landed property & income therefrom, if any.

7. A comparison with the first individual (one T.V.Sreedevi) would be made with reference to the applicant.

The details are as under:-

	<u>Applicant</u>	<u>Sreedevi</u>
(a) Family pension excluding relief	1712	1510
(b) Amount of Terminal Benefits received	85018	107512
(c) No. of dependents	4	2
(d) No. of unmarried daughters	Nil	1

(e) No. of minor children	Nil	Nil
(f) No. of earning members in the family.	Nil	Nil
(g) Other sources of income (annual)	Nil	5000
(h) Whether in own house or rented house	Own	own
(i) Details of landed property & income therefrom, if any.	22.5 Cents	20 Cents

8. If the family pension is compared, there is a difference of Rs 200 whereas, if the same is associated with the other sources of income, the same equalizes. If the number of dependents is concerned, the case of the applicant is more deserving than that of the other individual. If the terminal benefit is considered, then again, the case of the applicant is more deserving. In respect of own house and landed property, both the cases are equally poised. The only difference is that there is no unmarried daughter in the family of the applicant. But, it appears that the existence of unmarried daughter alone cannot be the deciding factor, as if that be so, in the case of one K. Vasanthi, the total number of unmarried daughters is three.

9. Again, in the case of one M.P. Pramod, there is only one dependent, the family pension is to the tune of Rs 1275 and terminal benefits paid were Rs 1,03,966/- The individual has been recommended for compassionate appointment.

10. Similarly, one M. Dileep had Rs 1913 as family pension, Rs 1,33,262 as Terminal benefits, the annual income from other sources is Rs 600/- and the family owns a house and 17 cents of barren land and the total number of dependents is three. This case has been recommended for compassionate appointment.

[Signature]

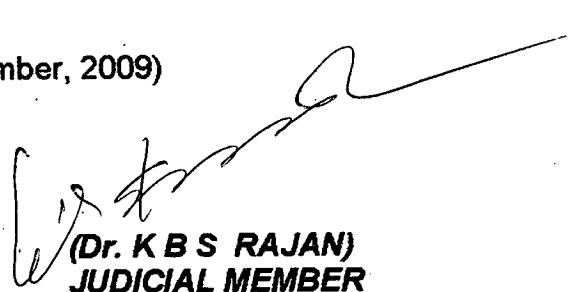
11. If the above cases could be considered as indigent, the case of the applicant also appears to fall within the same category; however, it is not exactly known, as to why the case of the applicant has been rejected.

12. It appears that the case of the applicant requires a re-look at appropriate level so that any inadvertent error in consideration which has resulted in the rejection could be rectified and if the authorities are satisfied, the applicant could be considered in the next meeting and decision taken. In fact, each case deserves consideration thrice while in the instant case, it was rejected after the very first instance. Further, if the case is now considered, perhaps vacancies that may be available may be many, as by virtue of the order dated 14th June, 2006, the criterion for working out the number of vacancies has undergone a change in that the optimization formula is not applicable in working out the vacancies.

13. In view of the above, the OA is disposed of with a direction to the Chief Post Master General to reconsider the case of the applicant in the light of the above observation and a decision taken after considering the applicant's case along with other cases in the ensuing meeting. Further action be taken on the basis of the decision taken.

14. No costs.

(Dated, the 09th November, 2009)



(Dr. K B S RAJAN)
JUDICIAL MEMBER