

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.38/2002.

Wednesday this the 24th day of April 2002.

CORAM:

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

1. R.Rajamma,
Kunnuvila Veedu,
Meeyannur P.O.,
Pooyapally-691 537.
2. D.R.Pradeep,
Kunnuvila Veedu,
Meeyannur P.O.,
Pooyapally - 691 537.
3. D.R.Prasad,
Kunnuvila Veedu,
Meeyannur P.O.,
Pooyapally - 691 537. Applicants

(By Advocate Shri Vishnu S.Chempazhanthiyil)

Vs.

1. Senior Superintendent of Post Offices,
Kollam Division, Kollam -1.
2. Circle Relaxation Committee,
represented by its Chairman,
O/o the Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Chief Postmaster General,
Kerala Postal Circle,
Thiruvananthapuram.
4. Director General, Postal Department,
New Delhi.
5. Union of India, represented by
the Secretary, Ministry of
Communications, New Delhi. Respondents

(By Advocate Shri P.Vijayakumar, ACGSC)

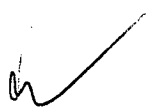
The application having been heard on 24th April 2002
the Tribunal on the same day delivered the following:

O R D E R

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

One D.David while working as Group 'D' employee under the first respondent died in harness on 3.8.97 leaving behind his widow, the first applicant, two sons, the applicants 2 and 3 and a daughter who was, at that time, unmarried. David was the sole

bread-winner of the family. The first applicant is suffering from severe spondylosis and the 2nd applicant, elder of the two sons had not attained the age of 18 years on the date of death of David. When the 2nd applicant attained the age of 18 years, by Annexure A-2 dated 26.8.98, he applied for employment assistance on compassionate grounds so that the family would be assisted for sustenance. Finding no response to his request, the 2nd applicant made an application A-4 dated 1.8.2000 for a provisional appointment pending final decision in the matter, which was replied to in negative, that, there is no provision for such appointment and informing him that his case for employment assistance is being considered by the Circle Relaxation Committee. Finally the applicants received A-6 order refusing to grant employment assistance on compassionate grounds for the reason that the applicant's family had received terminal benefits and that they are in possession of 35 cents of landed property and therefore, it was found that the family did not deserve employment assistance on compassionate grounds. Aggrieved by that the applicant has filed this application for setting aside A-6 for a declaration that the applicant is entitled for employment assistance on compassionate grounds and for a direction to the Circle Relaxation Committee to re-examine and reconsider the request of the applicant for compassionate appointment. It has been alleged in the application that the total cash benefits received by the family was only Rs.80,165/-that more than this amount was spent on the marriage of the daughter of the deceased in the year 2000, that the applicants' family is in possession of only 15 cents of land which does not yield any income, that the Circle Relaxation



Committee has not taken into consideration the relevant facts and that with the meagre family pension of Rs.1949/- per month the family consisting of three members, one of whom is suffering from serious ailment cannot sustain. It is also alleged that instructions contained in the guidelines issued by the Government of India, Department of Personnel and Training regarding consideration of the dependents of Group'D' employee who die in harness has not been considered and that the department has discriminated against the applicants who are the dependents of a deceased Group'D' employee by not granting compassionate appointment, while the son of a Group 'A' employee who died in harness was appointed on compassionate grounds although the family was in receipt of Rs. eight lakhs provisional death benefits.

2. When the application was admitted on 22.1.2002, it was ordered that the matter is required to be disposed of at the earliest and the respondents were directed to file reply statement within four weeks without fail. The respondents did not file the reply statement although several adjournments were granted in that regard. Therefore, the matter is now being heard and disposed of with the available pleadings and materials.

3. Learned counsel of the applicant with considerable tenacity argued that the impugned order A-6 is bad for non-application of mind to the relevant facts and materials. Counsel argued that the fact that the applicants belong to Scheduled Caste, that they are dependents of a Group'D'' employee who died in harness and that the terminal benefits received by

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them was consumed for the marriage of the daughter of the deceased were not at all taken into consideration by the Circle Relaxation Committee. Counsel pointed out that the Committee has had gone wrong in taking the view that the family is in possession of 35 cents of land while according to the certificate dated 26.12.2001 (A9), issued by the Village Officer, the total extent of the property owned by the applicant is less than 15 cents from which there is no income. Shri Vishnu S.Chempazhanthiyil, therefore, argued that as the relevant materials were not considered by the Circle Relaxation Committee, the recommendations of the Circle Relaxation Committee could not have been accepted by the competent authority and that the matter has to be referred back to the competent authority for a reconsideration by the Circle Relaxation Committee in realistic basis taking into account the relevant facts , materials and instructions.

4. I find considerable force in this argument of the counsel. The fact that the family had received terminal benefits, is not a reason for denying compassionate appointment. On the death of a Government servant any family would receive the terminal benefits. While the scheme was evolved it was not as if the framers of the scheme were not aware of this fact. Even with the terminal benefits and family pension ,the family be not in a position to meet its basic needs, employment assistance on compassionate grounds is warranted. It was to take care of such situation that the benevolent scheme was evolved. To deny employment assistance on compassionate grounds solely for the reason that the family received terminal benefits therefore is arbitrary and irrational. Further when decision was taken on the

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request of the applicant for employment assistance on compassionate grounds evidently the Circle Relaxation Committee had not taken care to follow the instructions contained in the Government of India , Department of Personnel and Training O.M.No.4014/6/94-Estt.(D) dated 9.10.1998 (A7) wherein at sub para (c) of paragraph 16 it has been stipulated as follows:

(c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors, such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc."

In sub para (e) of the same paragraph it is stipulated as follows:

(e) "Requests for compassionate appointment consequent on death or retirement on medical grounds of Group'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case."

5. A reading of the impugned order shows that the Circle Relaxation Committee has not taken into account the fact that the applicants family received only a sum of Rs.80,165/- as terminal cash benefits, that the family pension is only Rs.1,949/-, that a sizable amount has been spent for the marriage of the daughter of the deceased, that the widow of the deceased is suffering from Spondylosis and the two sons are unemployed. Although it is stated in the impugned order that the family is in possession of



35 cents of land, the document produced shows that the family is in possession of only 15 cents of land. Mere possession of 15 cents of land would not make the family able to survive the indigence, if the land would not yield any income. That the applicants were wholly depending on the earning of late David , a Group-D employee , that such cases as per the instructions contained in Annexure A7 had to be considered with greater sympathy appears to have been lost sight of by the Circle Relaxation Committee while considering their case especially when the Committee has allegedly recommended employment assistance to the son of Group-A officer who died in harness, while the family had received Rs. eight lakhs as terminal benefits. It appears that the impugned order is bad for lack of application of mind to the relevant facts and instructions and arbitrariness. The order therefore is liable to be set aside.

6. In the light of what is stated above, the impugned order is set aside .The respondents are directed to reconsider the claim of the applicant for employment assistance on compassionate grounds in the light of the relevant facts, rules and instructions, keeping in view the observation made supra and to take a reasoned decision and communicate the same to the applicant as expeditiously as possible , at any rate within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 24th April, 2002.


A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicants Annexures:

1. A-1 : True copy of the death certificate issued by Medical College Hospital, Thiruvananthapuram.
2. A-2 : True copy of the letter of the 2nd applicant to the 1st respondent dated 26.8.1998.
3. A-3 : True photocopy of the SSLC certificate of the 2nd applicant.
4. A-4 : True copy of the letter dated 1.8.2000 to the Postmaster General, Kerala Circle, Thiruvananthapuram.
5. A-5 : True copy of the letter No.BB/47/111/3/97-98 dated 11.8.2000 of the 1st respondent.
6. A-6 : True copy of order No.BB/47/111/3/97-98 dated 19.12.2001 of the 1st respondent.
7. A-7 : True copy of the scheme dated 9.10.1998 (relevant portion)
8. A-8 : True copy of the wedding invitation of the 1st applicant.
9. A-9 : True copy of the certificate No.1834/2001 dated 26.12.2001 issued by the Village Officer, Pallimon.
- 10.A-10 : True copy of the medical certificate dated 5.1.2002.
- 11.A-10(a): True copy of the medical certificate dated 4.1.2002.
- 12.A-11 : English translation of Annexure A2
- 13.A-12 : English translation of Annexure A8
- 14.A-13 : English translation of Annexure A9

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