

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.403/2003

Friday this the 10th October 2003

C O R A M:

Hon'ble Mr.A.V.Haridasan, Vice Chairman

N.A.Rema
W/o late C.A.Ravi
Mullakkarachira House
Nettoor P.O, Maradu - 682304
Ernakulam District.

Applicant

(By Advocate Mr.C.S.G.Nair)

Vs.

1. Flag Officer Commanding-in-Chief
Southern Naval Command
Cochin-682004
2. Union of India
represented by the Secretary
Ministry of Defence
South Block, New Delhi-110001.

Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 10.10.2003 and on the same day the Tribunal delivered the following:

O R D E R

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

This application is directed against the order dated 18.2.2002, Annx.A2 of the 1st respondent turning down the claim of the applicant for employment assistance on compassionate ground. The applicant is a young widow aged 28 years, whose late husband C.A.Ravi died on 20.3.2001 while in harness leaving behind beside the applicant two young children aged now 6 years and 3 years respectively. According to the applicant, the family is in receipt of a family pension of Rs.1275/- per month. The applicant submitted her claim for employment assistance on compassionate grounds. The applicant has got only a 1/3rd share


in the 5 cents of land and a dwelling house. Since the applicant was not able to meet both ends with this meager amount, she applied for employment assistance on compassionate ground. Her request has been turned down by the impugned order wherein, it has been stated that since the applicant was in possession of a property worth Rs.45,000/-, that although her case for employment assistance on compassionate grounds was considered and placed at Sl.No.10, she could not be appointed as there was only three vacancies in 5% quota earmarked for compassionate appointment. Aggrieved by that the applicant has filed this application. She alleged in the application that the case of the applicant has not received proper consideration at the hands of the Committee in accordance with rules and instructions and there has been miscarriage of justice. The applicant has prayed that the impugned order may be set aside and the respondents be directed to consider the applicant for appointment of a Group-C or Group-D post. The applicant is a Matriculate and eligible to be appointed on a Group-C post also.

2. The respondents seeks to justify the impugned order on the ground that the case of the applicant was considered in accordance with the guidelines issued in this regard and since the Committee has placed the case of the applicant at Sl.No.10 and the vacancies were only three in the 5% quota the denial of appointment to the applicant cannot be faulted.

3. I have perused the material placed on record and have heard Sh.CSG Nair, the learned counsel for the applicant and Sh.C.Rajendran, SCGSC, the learned counsel for the respondents.

✓

4. The learned counsel of the applicant argued that a mere perusal of Annx.A5 and Annx.R4(3) would show that the case of the applicant has not received a proper consideration. To illustrate this point, he invited our attention to sub-paragraph (d) of para 3 of Annx.A5 (Scheme for compassionate appointment Relative Merit points and revised procedure) according to which marks to be awarded to those who possess properties worth below 50,000/- is 8, and also to Annx.R4 proceedings of the Board which considered 100 cases together and placed her case at Sl.No.10, wherein while according to the admitted case of the respondents the total value of property possessed by her is only Rs.45,000/- (according to the applicant as is seen from Annx.A3 he has only 1/3rd interest in it she has been awarded only '6' marks under item (d) in para 3 of Annx.A5. He further stated that the applicant whose family pension is only Rs.1275/- has been wrongly awarded 18 marks while 20 marks should have been allowed, and that if the PPO had been scrutinised, the mistake could not have been committed. The counsel further argued that there has been a sad instance of miscarriage of justice in this case because the case of the applicant lost an opportunity of effective consideration against the vacancy of the relevant year as the respondents clubbed all the pending cases right from 1995 onwards towards the vacancies which arose during 2001 and 2002. The learned counsel of the respondents could not meet the argument of the counsel of the applicant on wrong award of marks under the caption for properties. Admittedly as per Annx.A5, the applicant was entitled to 8 marks instead of 6. Further, if the family pension of the applicant was really Rs.1275/- only,




.4.

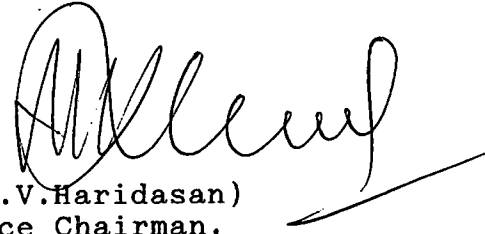
she would have been entitled to 20 marks instead of 18. Further, since it is seen from para 1(a) of Annx.R3 letter of the Ministry of Defence dated 12.2.01 the system of maintaining a waiting list for compassionate appointment, the case of the applicant as also similar case of death or medical invalidation in harness which accrued during the period of occurrence of that time vacancy alone should have been considered against those vacancies and the action of the Board in considering the cases pending from 1995 onwards has virtually defeated the purpose of consideration of compassionate appointment to give immediate assistance to those who have been deprived of their bread winner unexpectedly by unfortunate stroke of destiny.

5. In the light of what is stated above, I am of the considered view that the impugned order is liable to be set aside and the respondents have to be directed to reconsider the case of the applicant for employment assistance on compassionate ground as against the vacancies of the year 2001-2002 by giving her due mark for immovable and movable property as also the family pension and other retiral benefits and in case the applicant could not be appointed in the vacancies of the year 2001-2002 to consider her case by the Committee in terms of the instructions contained in the Govt.of India, Deptt.of Personnel & Training OM No.14014/19-2002 dated 5.3.2003 for the relevant number of years.

6. In the result, the application is disposed of setting aside the impugned orders Annxs.A2 and A7 and directing the respondents to have the case of the applicant for employment



assistance considered against the vacancies in the quota during the period 2001-2002 considering only those claims which arose on account of death which occurred during 2001 and 2002. If the vacancies which arose during that period were not sufficient to appoint the applicant either in a Group-C or Group-D post, her case should be considered in the light of the guidelines contained in Govt of India, Deptt. of Personnel & Training OM No.14014/19-2002 dated 5.3.2003 for the relevant years. The respondents shall complete the consideration of the applicant as afore directed and issue a resultant order and communicate the order to the applicant within a period of four months from the date of receipt of a copy of this order. No costs.


(A.V. Haridasan)
Vice Chairman.

kkj.