

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 404 of 2002

Friday, this the 23rd day of May, 2003

CORAM

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

1. B. Baiju,
S/o late Balan,
Thadatharikathu House,, Paniyode PO,
(via) Peringamala.Applicant

[By Advocate Mr. S. Rajasekharan Nair]

Versus

1. Union of India represented by the
Secretary, Ministry of Communications,
New Delhi.
2. Director General of Posts,
Department of Post, New Delhi.
3. Senior Superintendent of Post Offices,
Thiruvananthapuram North Division,
Thiruvananthapuram.Respondents

[By Advocate Mr. N. Mahesh, ACGSC]

O R D E R

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

None for the applicant. None has been appearing for the applicant for the last many occasions. It appears that the applicant is not interested in proceeding with this application any further. Hence, the Original Application is dismissed for default and non-prosecution. No costs.

Friday, this the 23rd day of May, 2003



A.V. HARIDASAN
VICE CHAIRMAN

Ak.

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 404 of 2002

Tuesday, this the 11th day of November, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. B. Baiju,
S/o late Balan,
Thadatharikathu House,
Paniyode PO, (via) Peringamala.Applicant

[By Advocate Mr. S. Rajasekharan Nair]

Versus

1. Union of India, represented by the
Secretary, Ministry of Communications,
New Delhi.
2. Director General of Posts,
Department of Post, New Delhi.
3. Senior Superintendent of Post Offices,
Thiruvananthapuram North Division,
Thiruvananthapuram.Respondents

[By Advocate Mr. N. Mahesh, ACGSC]

The application having been heard on 11-11-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant, B.Baiju, is the dependent son of late K.Balan who died in harness on 2-4-1999 while he was working as Postal Assistant, St.Xavier College Post Office, Thiruvananthapuram. At the time of the death of Shri Balan, the dependent family consisted of his widow, two daughters and a son, who is the applicant in this case. Annexure A1 application made by the applicant for compassionate appointment was rejected by the 3rd respondent stating that the Circle Relaxation Committee has observed that the applicant's family was not in indigent circumstances warranting consideration for appointment under the Rules. According to the applicant,

Annexure A2 order dated 8-8-2000, whereby the applicant's request for compassionate appointment had been rejected, was not a speaking order as it did not adduce any specific reason for rejecting the applicant's claim. The applicant further approached the 2nd respondent with Annexure A3 appeal dated 9-4-2001. The 2nd respondent has not so far considered and disposed of the same. In the circumstances, the applicant has filed this OA praying for orders quashing Annexure A2 order, a declaration that he is entitled for compassionate appointment and a direction to the respondents to give compassionate appointment to the applicant.

2. Though the case was admitted long back and the respondents were given several opportunities to file reply statement, no statement has been filed so far. Respondents were also directed to produce the Circle Relaxation Committee's report as per order dated 3-1-2003 of this Tribunal. As of now, neither a reply statement nor the Circle Relaxation Committee's report has been filed or produced. It is, therefore, deemed fit to dispose of the Original Application after hearing the learned counsel for the applicant and Shri N.Mahesh, the learned ACGSC.

3. Learned counsel for the applicant has submitted that Annexure A2 order does not speak of the factual circumstances of the case. Material facts in support of the applicant's claim were within the knowledge of the respondents and those were also highlighted in the request. Apart from stating that the Circle Relaxation Committee did not consider the applicant's family to be under indigent circumstances warranting consideration for appointment on compassionate grounds, the impugned order does not speak of other circumstances which the respondents ought to have considered

9.

and evaluated. Since neither a statement in reply to the Original Application nor the Circle Relaxation Committee's report called upon by this Tribunal has been furnished, it has to be presumed that the applicant had a legitimate claim for compassionate appointment and the respondents may be directed to allow the same, learned counsel would submit.

4. Shri N.Mahesh, the learned ACGSC, on the other hand, has stated that it was after proper deliberation with regard to the facts of the case that the Circle Relaxation Committee found that the applicant's case could not be considered for relaxation and appointment on compassionate grounds. The very fact that the applicant's family has been able to survive for the last four years would show that the extreme financial distress is over and there was no case justifying grant of the benefit of compassionate appointment in this case, he would submit.

5. On a consideration of the facts of the case, I find that Annexure A2 order is too cryptic to give any clear idea of the facts which weighed upon the respondents in finding that the applicant's case did not deserve any relaxation in the matter of grant of appointment. That the family consisted of the widow of late Balan, two daughters and the unemployed son, who is the applicant in this case, is not denied. Respondents should have evaluated the family's financial position and other norms with regard to the grant of compassionate appointment with regard to orders and instructions in force and the judicial decisions on the subject and passed a speaking order. It would also appear from the records that the applicant's Annexure A3 appeal is pending before the 2nd respondent. In the circumstances, I consider it appropriate to direct the respondents to dispose of the applicant's Annexure A3 appeal

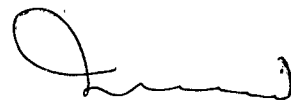
9.

..4..

with reference to the instructions and orders in force and pass a speaking order and serve a copy thereof on the applicant within a period of three months from the date of receipt of a copy of this order.

6. The Original Application is disposed of as above with no order as to costs.

Tuesday, this the 11th day of November, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

Ak.