

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.406/05

FRIDAY, THIS THE 10th DAY OF FEBRUARY, 2006

C O R A M

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

K.P. Koshy S/o KP Philipose
Ex BPM, Inchavila Perinad
residing at Kuzhinjazhikathu Puthen Veedu
Inchavila PO, Perinad
Kollam District.

Applicant

By Advocate Mr. Shabu Sreedharan (Adv.)

Vs.

1 Union of India represented by
Secretary/Director General of Posts,
Ministry of Communications
New Delhi.-110 001

2 The Chief Postmaster General
Kerala Region
Thiruvananthapuram.

3 The Senior Superintendent of Post Offices
Kollam Division
Kollam.

Respondents

By Advocate Mr. Sunil Jose, ACGSC

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

In this OA, the applicant challenges the rejection of his request for compassionate appointment. The facts of the case are that the applicant's father became physically disabled and incapacitated and in view of the said disability, medical examination was conducted and his services were terminated prematurely by Annexure A2 order. At that time he was working as GDS Branch Postmaster at Inchavila. The applicant's father made a representation to the second respondent requesting to give employment to his son in a suitable post on compassionate ground which was rejected by Annexure A4 order stating that near relative of invalidated GDS are not eligible for compassionate appointment. Aggrieved by

the order the applicant filed O.A. 437/2004 before this Tribunal which was allowed the OA by setting aside Annexure A4 and directing the respondents to consider his claim for employment assistance on compassionate grounds on merits and to pass orders within three months since a son or near relative of an ED Agent discharged on medical ground is entitled to claim the benefit of employment assistance on compassionate grounds. Though the respondents approached the Hon'ble High Court in WP(C) NO. 4077/2005 it was dismissed. The respondents have now in pursuance of the above orders of the Tribunal considered his request and rejected his claim by order dated 26.4.2005 (Annexure A-6) which has now been impugned in this OA. According to the applicant the only reason stated by the respondents in denying the compassionate employment is that the daughter and one son are married off and the family owns landed house. The respondents have not considered the financial condition of the family since they have no other means of livelihood and to meet the medical expenses relating to the father's disability.

2 In the reply statement filed by the respondents they admit that the father of the applicant was permanently incapacitated for further service of any kind in the department, therefore his services were prematurely terminated on 18.8.2003 on medical invalidation. The request of the applicant was placed before the Circle Relaxation Committee and on the basis of the circumstances and evaluation of the case it did not recommend compassionate appointment to the applicant as the family was not in indigent circumstances. It was essential to ensure that only deserving cases are approved as stipulated in the scheme of compassionate appointment and the applicant being one among the two sons and a daughter of the ex official who was discharged from service prematurely, who are already settled in life and there were more deserving case. Such appointments can be made only to 5% of the vacancies and therefore consideration has to be on a selective basis.

3 When the matter came up for hearing the learned counsel for the applicant vehemently argued that the respondents have not considered the case of the applicant in the proper perspective as the reasoning given in the impugned order is only that the other children were married and the family owns land and a house. They have not taken into account the fact that the father is disabled and bed ridden and the family is to meet expenses of his medical treatment and there is no other earning member of the family. It was also denied that the case of the applicant was evaluated by the officers on personal inspection or any enquiry was made on the financial conditions of the applicant.

4 I have heard the arguments of the learned counsel on both sides and perused the records produced before me. When the applicant had earlier approached this Tribunal we have directed that the case should be considered on merit by the Circle Relaxation Committee. Now it has been stated that the case was placed before the Circle Relaxation Committee and that they have not recommended compassionate appointment to the applicant as the family is not stated to be in indigent circumstances. This is the purport of the impugned order. I find from the reply statement of the respondents itself that they agree that the father of the applicant is permanently incapacitated for any work and is stated to be bed ridden requiring medical attention. The other son and daughter of the ex employee are married and as admitted by the respondents themselves and are living separately and not supporting the family. The applicant is the only surviving member who has to support both the parents and just because he owns a house in which they are living cannot be said that the family is not in indigent circumstance. The official was discharged from service in 2003 and the compassionate appointment scheme is meant to alleviate the distress caused by such sudden withdrawal of employment driving the family to a penurious existence. The respondents should have considered all these aspects before mechanically rejecting the claim for compassionate appointment. Since the scheme itself is for rendering immediate assistance, the request of the applicant had to be considered on a preferential basis.

I am not aware what are the more deserving cases considered by the Circle Relaxation Committee at the meeting. In the absence of any such records a comparative merit of the applicant's case cannot be determined. However, I am of the view that since the scheme itself is to alleviate the suffering of the family due to sudden loss of the earning member and since there are no other earning members in the family the case of the applicant deserves to be reconsidered by the Committee. His request shall be kept alive for the maximum period of three years as provided in the instructions. During this period his case shall be evaluated and considered whenever vacancies arise for employment under the 5% quota and if found otherwise eligible, the respondents shall consider and appoint him on compassionate grounds. The OA is disposed of as above. No costs.

Dated 10.2.2006

Sathiai
SATHI NAIR
VICE CHAIRMAN

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