

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 223 of 2001.

Dated this Wednesday the 10th day of July 2002.

Smt. D. Kamaladevi & Another. Applicant.

Shri R. C. Ravalani. Advocate for the  
Applicant.

**VERSUS**

Union of India & 4 Others. Respondents.

Shri R. K. Shetty. Advocate for the  
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? ☒
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? ☒
- (iii) Library ? ☒

B. N. Bahadur  
(B. N. BAHADUR)  
MEMBER (A).

os\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 223 of 2001.

Dated this Wednesday the 10th day of July 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

1. Smt. D. Kamala Devi,  
Wd/o. Shri P. Raveendren Pillai.
2. Shri R. Rajesh,  
Son of Shri P. Raveendren Pillai

Both 1 & 2 residing at -  
Kamala Bhavan, Thazhathu Kulakkada  
(P.O.), Via. Kottarkara,  
Kollam (Kerala) - 691 521.

...

Applicants.

(By Advocate Shri R. C. Ravalani)

VERSUS

1. Union of India through  
The Secretary,  
Ministry of Defence,  
South Block,  
New Delhi - 110 011.
2. The Deputy Director General,  
Military Farms, AHQ  
QMG's Branch, West Block-III,  
R.K. Puram, New Delhi 110 066.
3. The Director Military Farms,  
HQ, Southern Command,  
Khadki, Pune 411 003.
4. The Officer Incharge,  
Military Farm,  
Ahmednagar.
5. Miss. Rashmi Mehta,  
D/o. Shri Paramjit Singh Mehta,  
L.D.C., Military Farm,  
Jalandhar (Punjab)

...

Respondents.

(By Advocate Shri R. R. Shetty).

ORDER

PER : Shri B. N. Bahadur, Member (A).

*The Applicant No. 1 and 2 are mother and son,  
being, respectively, the widow and son of Shri P. Ravindran  
Pillai, the late Government employee.*

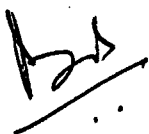
*Bs*

...2

2. The facts of the case brought forth in the O.A. are that Shri Ravindran Pillai, who was working as U.D.C. in Military Farm, Ahmednagar, unfortunately expired, while in service, on 05.12.1991. It is stated that even though Applicant No. 1 is in receipt of pensionary benefits, she has no other means of livelihood and that the family consists of three sons and an old mother of Shri Pillai, besides herself. The Applicant No. 2, even on completion of his education upto M.Com. is unemployed and with only the widow's family pension to support them, the family is in utter distress. On approaching the Respondents, a Group 'D' post was offered to Applicant No. 2, Shri Rajesh, who after initially agreeing to accept it, had refused it on reconsideration as he was then studying in final year B.Com.

3. Even for the post of L.D.C. which was sought by Rajesh, he was informed that he was kept under Waiting List. Further averments are made and one of the grievances that applicant has is that two persons, namely - Ms. Rashmi Mehta and Shri Kailash Adke, were provided with compassionate appointment as L.D.C., even though their husband/father respectively had expired on dates in 1995 i.e. much later to Shri Pillai's demise.

4. Learned Counsel for the Applicant argued the case at some length, taking the averments and facts in the O.A. and expounding the grounds, etc. It was stated that even though that Shri Pillai had expired in 1991 when Applicant No. 2 was barely fourteen years, other cases as detailed were considered in preference, even though the concerned employees had expired later. They were provided with Group 'C' post whereas applicant was not provided such a post.



5. The Respondents have filed a Statement of Reply taking the stand that the Group 'D' post offered was declined, whereafter the name of Rajesh was kept in Waiting List for Group 'C' appointment. Finally, as per circular of 09.03.2001 (Exhibit R-1) his name was deleted from the panel.

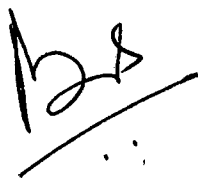
6. The detailed points taken in the Written Statement of Respondents were argued by the Learned Counsel for Respondents, Shri Ravi Shetty for Shri R. K. Shetty. He also referred to para 2 of the Written Statement, and took the stand that appointment of Shri K. Adke and Ms. Reshmi Mehta were made as sanction of QMG was accorded in their cases in August, 1995 and March, 1998 respectively. The sanction of QMG for Rajesh for L.D.C.'s post came later. It was argued that Applicant had applied for compassionate appointment only on 16.12.1996 as far as Group 'C' post was concerned and this point is expounded in para 2 of the additional statement of Respondents dated 06.06.2002. It must at this stage be recorded, in the rejoinder filed by the Applicant it has been stated as follows :

"2.3 The statement, that, applicants' case has not been found meritorious enough to make the grade for compassionate appointment, is also misleading. The Respondents did consider the case, as fit case for appointment, and, offered Group D post, although App. No. 2, had applied for LDC post. However, Appl. No. 2, as he was studying in Final Year B.Com., considering his future prospects of life, desired to complete B.Com. and, therefore, Applicants requested the Resp. vide application dt. 19/12/1996 (A-3) to kindly consider him for the post of LDC. The Respondents were did accept the request, and, intimated the applicants vide their letter dt. 10.07.1997, that, App. No. 2 has been kept on waiting list, for the post of LDC. (Annex. A-4)."

7. I have carefully considered the facts of the case, papers on record and the arguments made on behalf of respective sides by

*Handwritten signature*

their Learned Counsel. One of the main burdens of the argument on behalf of the Applicant was that in the other case in which Class-III post was provided to the respective applicants/family members. It was also argued that the present Applicant was similarly situated, and was stressed that the death of the Government servant in this case occurred earlier. On the face of the facts, it would appear that it would perhaps have been better that the Applicant in the present case was also provided with similar kind of post. However, we are constrained in providing the relief on this ground alone, both by the law settled in regard to compassionate appointments by the Apex Court and also one salient fact. A Group "D" post was offered after the death of the late Government employee to Applicant No. 2 which was refused. It has clearly been settled that claimants of compassionate appointment cannot have any right to the level of the post that could be provided to them. It could be a lower post, even lower to the level of post held by the deceased Government servant. Well as it is true that compassionate appointment has been offered to Respondent No. 5 at higher level, this fact of refusal of earlier offer will also have to be considered and makes the case of the Applicant weak. The Applicant may have had a genuine reason for refusing the level of appointment offered but we have also to remember that it has been laid down in more judgements than one, and stressed that compassionate appointment is a system of appointment, which is an exception to the normal method of recruitment guaranteed in law to citizens; and that only in the most exceptional of case has it to be provided.



8. In the circumstances, <sup>BaB</sup> I am unable to provide the relief sought to the Applicant on the basis of the facts and circumstances of the case. The O.A., therefore, fails and is hereby dismissed. No costs.

os\*

B. N. Bahadur  
(B. N. BAHADUR)  
MEMBER (A).

10/2/2002

order/Judgement despatched  
to Applicant/Respondent (s)  
on 24.7.02

P/S