

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 119/91
T.A. No.

198

DATE OF DECISION 28-4-1992Kum Sangita Ramakrishna Kadam PetitionerShri C.B.Kale, Advocate for the Petitioner(s)

Versus

The Chief Postmaster General Respondent
Bombay.Shri P.M. Pradhan. Advocate for the Respondent(s)

CORAM :

The Hon'ble ~~Ms.~~ MS. USHA SAVARA, MEMBER (A)

The Hon'ble Mr. SHRI S.F. RAZVI, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *—*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

MGIPRRND-12 CAT/86-3-12-86-15,000

(S.F. RAZVI)
MEMBER (J)by *S.F. RAZVI*
28/4

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 119/91

Kum. Sangita Ramkrishna Kadam

... Applicant.

V/s.

1. The Chief Postmaster General
Maharashtra Circle,
Bombay - 400 001.
2. The Director General
Dept. of Posts
New Delhi - 110 001. ... Respondents.

CORAM: Hon'ble Ms. Usha Savara, Member (A)

Hon'ble Shri S.F. Razvi, Member (J)

Appearance

Mr. C.B.Kale, advocate
for the applicant.

Mr. P.M.Pradhan, advocate
for the respondents.

JUDGEMENT

Dated: 28.4.92.

I Per Shri S.F. Razvi, Member (J) I

1. The short point arising for consideration in this application is whether the rejection of the request of the applicant for appointment on compassionate grounds by the 2nd respondent, communicated through Annexure A2 is not in accordance with law and is liable to be set aside.
2. The facts relevant and necessary to be mentioned for proper appreciation of the points involved for consideration are not much in dispute and lie in a narrow compass. Briefly put, they are :
3. Applicant is the daughter of one Ramakrishna S. Kadam, who was working as a postal Assistant in the International Airport post office at Bombay and who died on 26.12.1984 while in service. He left behind his widow aged about more than 50 years, two daughters and a son of whom the applicant being the 2nd daughter and the son younger to the applicant were minors on the date of death of their father. The applicant

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has since attained majority and on the date of this application she was aged about 19 years. In November 1987 she submitted an application seeking appointment on compassionate grounds to the 1st respondent and the 1st respondent after necessary verification and after obtaining the consent of the son of the deceased employee, i.e. the younger brother of the applicant to the effect that he had no objection for giving appointment on compassionate ground to his elder sister, i.e. the applicant, forwarded the same to the 2nd respondent. The 2nd respondent subsequently rejected the request of the applicant and the same was intimated to the applicant vide the impugned communication Annexure A2 dated 12.12.90, the order of rejection by the 2nd respondent being dated 28.11.90. As seen from Annexure A2 the 2nd respondent has rejected the request of the applicant on the ground that the family of deceased father of the applicant had not been left in indigent circumstances at the time of death of deceased, since the family, consequent on the death of the deceased in harness, had received more than Rs. 60,000/- and there was already an earning member in the family. Aggrieved by this rejection on the part of the 2nd respondent, the applicant has come up before this Tribunal seeking a direction to the respondent's to give suitable employment, under relaxation rules, on compassionate grounds.

4. We have heard the Learned Counsel and
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5. It was contended for the applicant by her learned counsel that the 2nd respondent has not considered the case of the applicant in its proper perspective and has totally failed to consider the condition of the family left by the deceased employee and the minor children he had left beyond and the other various aspects and circumstances in which the family came to be placed on the death of the deceased employee. Canvassing the several circumstances pointed out in the application, the learned counsel urged that the decision taken by the 2nd respondent rejecting the applicant's request is unsuitable in law and this application is proper to be allowed.

6. On behalf of the respondents, the grounds put forth in the reply statement filed, are reiterated in justification of the impugned order.

7. It is common case that the elder sister of the applicant, even during the lifetime of her father was working as Telephone Operator, ~~she~~ having ~~seen~~ that job in the normal course and not on any compassionate ground and that she was married some time after her father's death, in harness. It has not been disputed by the respondents that after her marriage, the eldest daughter is living with her husband and no longer lives with the widow of the deceased and the other two members left by the deceased. It is the case of the applicant that since her marriage her eldest sister is no longer supporting the family. In the absence of any assertion to the contrary and having regard to the fact that after her marriage she is living separately with her husband, we find no good reason to doubt the veracity of the applicant's case that the elder sister since her marriage is no longer a

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financial helper to the family.

8. It is no doubt true and it is also not in dispute that on the death of deceased Ramakrishna the family received DCRG of about Rs. 62000/- and the widow got a family pension of Rs. 550/- P.M. which has since been enhanced to Rs. 750/- due to additional D.As granted periodically. The applicant has in the application given details of the liabilities and expenses incurred in performing the marriage of the eldest daughter, for education of the minor children and for maintaining the family. We find no basis to conclude that these liabilities and expenses detailed in the application are exaggerated and are without basis. In all probability, the family would have incurred the various expenses towards marriage of the eldest daughter, though earning, education of the minor children and other family needs as explained in the application. In the facts and circumstances of this case, to say that the DCRG amount of Rs. 62000 and family pension of Rs. 550/- P.M. given to the family on the death of the deceased was sufficient and the family was not in indigent circumstances would be illogical and cannot be accepted. We are not impressed by the contentions urged for the respondents that in case the applicant is given appointment on compassionate grounds, she having become of marriageable age now, she may also like her elder sister get married in course of time and leave the family in the lurch and on this ground the claim cannot be countenanced as valid. It is the case of the applicant that the son of the deceased is still pursuing his education and she wants to support her brother in his further education and meet the family

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needs and relieve the family of the misery by securing the appointment and help the family in distress. If that be the true aim for securing appointment on compassionate grounds, one should welcome it and not discard it as purely whimsical or improbable.

9. It is true law that cases relating to appointment on compassionate grounds should be considered expeditiously, sympathetically and with a 'sense of justice' and in applying procedural regulations, the provisions should be read in the spirit in providing such regulations and in applying procedural regulations, the letter of the law should not be read to its better end. In the case of Angoori Devi Vs. Union of India reported in (1991) 16 ATC 918, the Principal Bench of the CAT pointed out that the mere fact that widow and her 2 sons somehow managed to live during the period and that the family had a house and some land for cultivation and that the widow got termenal benefits and pension are not sufficient grounds to deny appointment on compassionate grounds.

10. In our opinion, in the facts and circumstances of this case, the refusal of the calim of the applicant for appointment on compassionate grounds on the grounds that the elder daughter of the deceased was earning and that the family got the DCRG of Rs. 62000/- and family pension of Rs. 550/- P.M. is unjustified and the 2nd respondent ought to have considered the various aspects and the condition of the family and the minor children existing at the time of death of deceased Ramakrishna. The rejection of the claim without consideration of all these aspects and merely on the ground, indicated in the impugned communication is illegal and liable to be set aside.

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11. For the above reasons we set aside and quash the impugned order passed by the 2nd respondent and communicated vide Annexure A2 rejecting the claim of the applicant. We direct the respondents to consider the claim of the applicant afresh, in the light of the observations made in the course of this order and if on such consideration she becomes entitled to such appointment, to give her suitable appointment on compassionate grounds. Respondents to comply with this direction as expeditiously as possible but not later than three months from the date of the receipt of a copy of this order. If the applicant is aggrieved by the decision that the respondents may take, it is open to the applicant to approach this Tribunal to seek redressal of such grievance.

No costs.

Syed Faruq
28/4/92

(S.F. RAZVI)
MEMBER (J)

Usha Savara
28/4/92.
(USHA SAVARA)
MEMBER (A)

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