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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 295/91

Date of Decision : 19-2-92

T.A.No.

G. Madhusudhana Rao,

Petitioner.

Sri C. Suryanarayana,

Advocate for the
petitioner(s)

Versus

The Telecom District Engineer, Srikrishna Srikakulam, 532 050
& 2 others

Respondent.

Sri Naram Bhaskar Rao,

Advocate for the
Respondent(s)

CORAM :

THE HON'BLE MR. C. J. ROY : MEMBER (J)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

(H.C.J.R.)
(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH ::
AT HYDERABAD.

O.A.No. 295/91.

Date of Order: 19-2-92.

G. Madhusudhana Rao
Vs.

.. .. Applicant

1. The Telecom Dist. Engineer, Srikakulam-532 050.
2. The Chief General Manager, Telecom, A.P., Hyderabad-500001.
3. The Director General, Telecom (representing Union of India), New Delhi-110 001.

.. .. Respondents

For the Applicant : Shri C. Suryanarayana, Advocate.

For the Respondents : Shri Naram Bhaskara Rao, Addl. Standing Counsel for Central Govt.

.....

CORAM:

HON'BLE SHRI C.J. ROY, MEMBER (JUDL.)

(ORDER OF THE SINGLE BENCH DELIVERED BY HON'BLE SRI C.J. ROY, M(J)

.....

This is an application filed by Sri G. Madhusudhan Rao under section 19 of the Administrative Tribunals Act, 1985 claiming for an appointment on compassionate grounds. This application contains eleven annexures. The facts of the case are that the applicant's father worked as Technician in Telecom District Engineer, Srikakulam, and died in harness on 20-7-1985 leaving behind his wife and six children including two daughters. The two daughters were married. Applicant is the first son of the deceased employee. At the time of death of his father, applicant was only 16 years old. The other three sons are younger to the applicant and not in a position to earn anything. When applicant became 18 years old, his mother represented to the Respondent No.1 on 1-3-1987 for appointment on compassionate grounds. In Annexure A-2,

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...2.

Respondents informed the applicant's mother to apply for appointment in the proforma. The proforma was submitted by the applicant, but no action was taken. Annexure A-3 is another representation of the applicant dt. 9-9-1988 addressed to the 2nd respondent. The 1st respondent in his letter dt. 7-5-1989 called for, for the willingness of the applicant to work anywhere in the Circle. The applicant immediately exercised his option to work anywhere in the circle. But on 29-11-1989 the applicant was informed that his case for appointment was considered and rejected by the Circle Selection Committee. Thereupon the applicant preferred a fresh representations to the 2nd respondent, which is dt. 19-12-1989 and 29-12-1989. The 1st respondent in his letter dt. 6-1-1990 advised the applicant to represent to the Chief General Manager, Telecom, Hyderabad, directly if required. Thereafter the 2nd respondent in his order dt. 11-1-1990, which is impugned in this application, informed the applicant that after reconsideration, his case for appointment on compassionate grounds was rejected. Hence this application.

2. The respondents filed a counter more or less accepting the facts. It is stated that the applicant could not be appointed since there was no outside recruitment except some special recruitment to fill up the back-log vacancies of SC and ST. The services of casual/part-time employees (who completed 7 years of service) were also regularised under the instructions of the Department of Telecom, New Delhi.

3. I heard Sri C.Suryanarayana, learned counsel for applicant and Sri Naram Bhaskara Rao, learned counsel for the respondents and perused the records carefully.

4. In Swamy's Complete Manual on Establishment & Administration for Central Government offices under Chapter-25, at page-214 with regard to compassionate appointments in P & T Department, it is stated that -

"(1) Delegation of powers and constitution of committees:

In pursuance of the revised policy...., to make compassionate appointments of sons/daughters/ near relatives of P&T employees who die in harness and leave the family in indigent circumstances to Heads of circle etc. declared as Heads of Department under S.R.2(10) if more than five years have not elapsed between the date of application for employment and the date of death of the employee. For this purpose in each circle a committee consisting of should be constituted. The committee should scrutinise all such cases and decide them keeping in view guidelines provided by the Department of Personnel & A.R. Such appointments must conform to the provisions as regards eligibility etc. of the relevant Recruitment Rules except the condition of merit and nomination by Employment Exchange. The cases requiring relaxation of educational qualifications and age limits and in which there is already one earning member in the family, if recommended by the committee will continue to be referred to the Directorate as it is. Similarly, the cases in which more than five years have elapsed between the date of death and the date of application will, if recommended by the committee, be also referred to the Directorate. But in so doing it should be borne in mind that the main objective of such compassionate appointment is largely related to the need for immediate assistance to the bereaved family."

5. The learned counsel for respondents, in support of his contentions, cited a decision reported in 1991(5) SLR 404 - CAT, Patna - Chintamani Debi and another Vs. Employees

State Insurance Corporation and others wherein it was held -

"if the respondents arrived at the conclusion on an assessment of the relevant considerations as per the instructions that the family is not in distress and hence the claim for compassionate appointment is not to be allowed, the respondents cannot be faulted. The decision on no account be said to be arbitrary or illegal."

On going through the decision, I am of the view that it is of no assistance to the respondents herein. That was a case where the deceased had two sons, and out of them the first was employed as a Medical Officer. But in the instant case, the applicant herein is not similarly situated.

6. The learned counsel for respondents further cited the decisions rendered by this Tribunal in O.A.No.520/90, O.A.No. 973/89, and O.A.No.168/90 in support of his contentions. In O.A.No.520/90 the Hon'ble members observed and held that -

"We do not agree to this since this condition is very essential to prevent persons waiting till the fag end of their career and just seeking retirement to enable their wards to get appointment."

It is further held that -

"In this case, the Circle Selection Committee is stated to have examined this aspect and come to the conclusion that the applicant is not in indigent circumstances. Going by the particulars of the financial position of the applicant we also feel that the applicant is not in indigent circumstances to merit compassionate ground appointment and therefore the rejection of the case by the respondents is quite in order."

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....5.

It can be seen that O.A.No.973/89, relied upon by the learned counsel for the respondents was dismissed on the ground that the applicant's family is in a relatively comfortable situation; and O.A.No.168/90 was dismissed on the grounds that the two elder brothers of the applicant are employed and the mother of the applicant is receiving pension.

7. The applicant in the present case is having three younger brothers, who are wholly dependants on him and that no earning member in the family. In my view, the observations made in the above cited O.As. cannot be applied to this case as they have no relevance to it.

8. I am fortified with the decisions taken by the Hon'ble Supreme Court in Smt. Sushma Gosain Vs. Union of India (AIR 1987 SC 1976); and Smt. Phoolwati Vs. Union of India and others (AIR 1991 SC 469) wherein it was held that even supernumerary posts can be created if necessary, if vacancies are not available for granting appointment on compassionate grounds; and delay should not be made in cases of compassionate appointments, respectively. Based on the principles laid down by the Hon'ble Supreme Court of India in the above cases, the Principal Bench of this Tribunal in Smt. Asha Devi Srivastava Vs. Union of India and others (O.A.No.1417/1990 - 1992(1) ^{SLT} (CAT) 38) held that appointments should be given by creating supernumerary post. Each case has to be seen on its own circumstances. In the present case the circumstances are such that the applicant is in indigent circumstances having three brothers and mother and have no support. All the children have to come-up in life. So this is a fit case for consideration for an appointment on compassionate grounds.

To

1. The Telecom Dist. Engineer, Srikakulam-050.
2. The Chief General Manager, Telecom. A.P. Hyderabad-1.
3. The Director General, Telecom, Union of India,
New Delhi-1.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.Naram^o Bhaskar Rao, Addl. CGSC. CAT.Hyd.
6. One spare copy.

pvm

9. Now, the point for consideration is - whether the Government has power to relax age and educational qualifications in case of appointment on compassionate grounds. Recruitment rules are also placed before me by the learned counsel for the applicant. Rule-6 of the Recruitment Rules reads as follows:-

"Relaxation:

Compassionate appointments are made in relaxation of the following:-

- (a) Recruitment procedure, i.e. without the agency of the Staff Selection Commission or Employment Exchange.
- (b) Age Limit wherever necessary. The relaxation of lower age limit should not be below 14 years of age.
- (c) Educational qualification to the extent stated in para-4 above.
- (d) Clearance from Surplus Cell of this Department/Directorate General of Employment and Training.

Besides, the applicant had represented to the respondents immediately after attaining the age of majority. In M.A. No.413/91 this Tribunal has already condoned the delay on 27.3.1991. The fact here is that there is no earning member in the family and that the applicant has three brothers younger to him and mother, who are all depend on him.

10. Under the circumstances, I direct the respondents to relax the rules and consider the case of the applicant for appointment on compassionate grounds within a period of four months from the date of receipt of this order, if necessary by creating supernumerary post. Accordingly, the application is allowed. There will be no order as to costs.

Leby
(C.J. ROY)
MEMBER (J)

Dated 19th February, 1992.

grh.

86/391
Deputy Registrar (J)

~~For ref~~ 13/92 (7)

~~For ref~~ 13/92 (7)

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER(JUDL)

DATED: 19 - 2 - 1992

~~ORDER~~ JUDGMENT :

R.A/C.A/ M.A.No.

in

O.A.No.

295 | 91

T.A.No.

(W.P.No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

PVTC

