

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

19A

O.A. No. 346/91

Date of Decision :

~~T.A. No.~~

G. Sivasankaran

Petitioner.

Sri N.Rama Mohana Rao

Advocate for the  
petitioner (s)

Versus

Union of India, rep. by (D.G.), Secretary  
to Govt., Deptt. of Posts, New Delhi & 2 others.

Respondent.

Sri Naram Bhaskara Rao, Addl. CGSC

Advocate for the  
Respondent (s)

CORAM :

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

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)

HCJR  
M(J)

O.A.No.346/91.

Date of Order: 26-3-92

Between:

G. Sivasankaran ..

Applicant

Vs.

1. Union of India, rep. by (Director General), Secretary to Govt., Deptt. of Posts, New Delhi.
2. The Chief Post Master General, Andhra Circle, General Post Office, Abids, Hyderabad.
3. The Superintendent, Post Offices, 'AG' Division, Guntakal.

.. Respondents

For the applicant : Shri N. Rama Mohana Rao, Advocate.

For the respondents : Shri Naram Bhaskara Rao, Addl. CGSC.

CORAM:

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

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

This application is filed under sec.19 of the Administrative Tribunals Act, 1985 to declare the proceedings No.B.2/S.I./KW/III dt. 10.4.1990 and WLF/1-26/12/90, dt. 30.3.1990 of respondents as illegal, arbitrary and unconstitutional and further to declare that the applicant is entitled to be appointed on compassionate grounds.

2. The father of the applicant while he was working as Head Sorter in the office of RMS 'AG' Division, Guntakal died due to Cerebral Haemurage, on 26.10.1989 leaving his wife, 2 sons and 2 unmarried daughters, who were all dependents on him. As the mother of the applicant was uneducated to seek employment on compassionate grounds had represented to the respondents to consider the case of the applicant herein for appointment on compassionate grounds. The applicant is a Graduate and states that he

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is entitled to be appointed on compassionate grounds as per the policy of the Government. The applicant alleged that to his surprise the 3rd respondent vide his proceedings dt.10.4.90 communicated stating that the applicant herein is not entitled to be appointed on compassionate grounds. It is alleged that no reasons are given to reject the representation. It is averred that the mother of the applicant thereafter represented on 27.4.1990 to review the request made by her for compassionate appointment to the applicant herein. The applicant filed this O.A. as there was no communication subsequent thereto. The applicant alleges that the action of the respondents in rejecting the request without giving any reasons is illegal, contrary to principles of law, and against principles of natural justice.

3. The respondents filed counter and denied the allegations made in the application. The respondents, however, admitted the facts, but alleges that the family of the applicant is not in indigent circumstances as the family of the deceased were provided with a sum of Rs.93,589.00 as terminal benefits besides a family pension of Rs.800/- p.m. It is averred by the respondents that the Circle Selection Committee carefully found that there are no indigent circumstances in the case, and therefore rejected the case. The respondents stated that out of the vacancies occurring each year 50% are to be earmarked for departmental promotions and the remaining 50% for preferential categories: compassionate appointments etc. which puts a constraint on them to fill up the vacancies exclusively for compassionate appointment. The respondents allege that in each the compassionate appointment cannot be offered and that each case has to be considered on its merits and indigent situation of the family. The respondents deny that the family of the deceased employee is not found in dire need of employment and therefore the case of the applicant rejected. The respondents desire the application be dismissed.

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4. The applicant filed material papers viz. Representation dt. 7.11.1989 submitted by the mother of the applicant seeking compassionate appointment to the applicant herein, letter dt. 10.4.1990 issued by the respondents rejecting the request of the applicant for appointment on compassionate grounds; and Representation dt. 27.4.1990 submitted by the mother of the applicant explaining the circumstances of the family with a request to reconsider the matter.

5. I heard Sri N. Rama Mohana Rao, learned counsel for the applicant and Sri Naram Bhaskara Rao, learned Addl. Standing Counsel for Central Government and perused the records carefully.

6. From the contentions raised by the respective parties, the fact that none of the family members are earning is not in dispute. It can also be seen that the deceased employee left behind him, two sons, two unmarried daughters, and wife (the mother of the applicant). No doubt, the family was provided with the terminal benefits and pension as stated by the respondents. During the arguments, the learned counsel for the applicant represented that out of two daughters, the marriage of one daughter was performed and that the family is indigent circumstances and in dire need of employment to the applicant. Learned counsel for the applicant also further represented that there is a liability of performing the marriage of another daughter. As none of the family members are earning, the family cannot come out of the responsibilities with the terminal benefits paid to them.

7. In view of the circumstances of the family of the deceased employee, the respondents cannot reject the claim for compassionate appointment without giving any just and valid reasons. I am fortified with the decisions of the Hon'ble Supreme Court in Smt. Sushma Gosain Vs. Union of India (AIR 1987 SC 1976); and

To

1. The Secretary to Govt., (Director General)  
Union of India, Dept. of Posts, New Delhi.
2. The Chief Post Master General,  
Andhra Pradesh.
3. The Superintendent, Posts Offices, 'AG' Division, Guntakal.
4. One copy to Mr. N. Rama Mohan Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. Bhaskara Rao, Addl. CGSC. CAT. Hyd.
6. One spare copy.

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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 above principles of rulings laid down by the Hon'ble Supreme Court of India, the Principal Bench of this Tribunal in Smt. Asha Devi Srivastava Vs. Union of India and others (O.A.No.1417/1990 - 1992 (1) (CAT) 38 )

numenary post. In the instant case the father of the applicant had served the department of about 33 years. Having served the department for about 33 years, the family of the deceased employee should not be left in the lurch though compassionate appointment is not a vested right. The image of the Government will also fall in the eyes of the public that the erstwhile employer's children are on the road. It is not in dispute that 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 the responsibility of performing the marriage of a sister, his brother has to come-up <sup>his</sup> in/life besides their maintenance. So, this is a fit case for consideration for appointment on compassionate grounds.

8. Under the circumstances, I direct the respondents to 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.

( C.J. ROY )  
MEMBER (J)

Dated 26<sup>th</sup> March, 1992.

grh.

89/4/92  
Deputy Registrar (J)

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

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

AND

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

AND

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

Dated: 26-3-1992.

~~ORDER~~ / JUDGMENT

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

in

O.A.No. 346/91

~~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.

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