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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.914/91

DATE OF JUDGEMENT: 14/2 FEBRUARY, 1992

BETWEEN

Sri KV. Ramana Rao .. Applicant

AND

1. Director General
Dept. of Posts, Dak Bhavan
Sansad Marg, New Delhi
2. The Chief Post Master General
Andhra Pradesh Circle, Abids,
Hyderabad
3. The Superintendent of Post Offices
Anakapalli Division
Anakapalli (PO) AP .. Respondents

Counsel for the applicant :: Sri M.P. Chandramouli

Counsel for the Respondents :: Sri N. Bhaskara Rao, Addl.
CGSC

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T. C. Reddy

(34)

SINGLE
JUDGEMENT OF THE MEMBER BENCH DELIVERED BY
THE HON'BLE SHRI T. CHANDRASEKHARAREDDY, MEMBER (JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act to direct the respondents to offer an appointment to the applicant in postal Assistant cadre under the scheme of the Govt. of India for providing employment to the dependents of a Government servant retired on medical grounds and pass such other orders as may be fit and proper in the circumstances of the case.

The facts giving rise to this application in brief, may be stated as follows:

1. One Sri K. Ramu Naidu, who is the father of the applicant herein, joined in Postal Department in the year 1958. The said Sri K. Ramu Naidu, the father of the applicant herein, fell sick while working as Sub-Post Master at Payakaraopet in Visakhapatnam District. Post Office. So, the said Sri K. Ramu Naidu-father of the applicant retired from service on 8.2.1990 under the provisions of Rule 38 of CCS(Pension) Rules, 1972. According to the applicant, the respondents have to provide the applicant a suitable post without reference to the Employment Exchange on compassionate grounds in relaxation of recruitment rules.

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2. The applicant has passed S.S.C. at his age of 24 years. His name was also registered in the Employment Exchange, Visakhapatnam. The applicant therefore contends that he is eligible to be appointed in Group 'C' post in the respondents Department under relaxation of recruitment Rules.

3. The father of the applicant, Sri K. Ramu Naidu, submitted a representation dated 3.4.1990 (Annexure - 6) that is appended to the OA) praying the second respondent, to offer a suitable employment to the applicant. As sought for by the 2nd respondent, required information was furnished by the applicant with regard to the assets and liabilities of the family. The applicant seems to have submitted another representation on 5.5.1991 to the Competent Authority through his advocate (Annexure - 3 that is appended to the OA) stating all the facts and requested early action in the matter. The applicant was informed by the 3rd respondent vide his proceedings dated 4.6.91, quoting the decision of the 2nd respondent dated 30.5.91, that there are no indigent circumstances in the family of the applicant's father - Sri K. Ramu Naidu who retired on medical grounds and that Sri K. Kotigureswara Rao - another son of Sri K. Ramu Naidu - (the applicant's father) - is working as UDC in the Commercial Tax Office, Narasipatnam and that the father of the applicant received Rs.39,080/- as terminal benefits besides his regular monthly pension Rs.528 apart from allowances on the said pension. It was pointed out, was also further that the family of the applicant father is having a own house to live and getting

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Rs.2400/- per annum towards the rent and that the family is owning 5 acres of wet land which fetches an annual income of Rs.5000/-, the Selection Committee has decided that the family is having adequate means of livelihood to maintain the family, and that the applicant cannot be provided appointment on compassionate grounds. It is the said proceedings dated 4.6.1991 issued by the 3rd respondent informing the applicant that he cannot be provided appointment on compassionate grounds, that is questioned in this OA and for other reliefs as already indicated above.

4. A detailed counter is filed by the respondents opposing the application. We have heard Sri Chandramouli, advocate for the applicant and Sri N.Bhaskara Rao, Counsel for the respondents.

5. As already pointed out, the case of the applicant for compassionate appointment, had been considered by the Circle Selection Committee. Admittedly, the first son of the retired official Sri K. Ramu Naidu, who is Sri K. Kotigureswara Rao is working as UDC in the Commercial Tax Office Narasipatnam. The income from the 5 acres of wet land which the applicant is said to be owning is shown by the applicant at Rs.5000/- p.a. Besides, the retired official is having a own house to live in getting a rent of Rs.2400/- p.a. as per his statement. The retired official is also getting a pension of Rs.528/- p.m. apart from on the said pension and at the time of retirement he was in receipt of the following:

DCRG	Rs.16,760/-
GPF	Rs. 770/-
PLI	Rs. 6324/-
Leave Encashment	Rs.12,958/-
CGEIS	Rs. 2,240/-

Taking into consideration of the above said factors, the circle selection Committee had come to the opinion that this is not a fit case to offer appointment to the applicant on compassionate grounds and had rejected the representation of the father of the applicant and also other representations to provide a job to the applicant on compassionate grounds.

6. In this context, it will be worthy to note the decisions of Central Administrative Tribunal, Madras Bench - 1989(1) CAT - reported at All India Services Law Journal ^{Vol 1} Page 127 - Sri Kunhikrishna Karup (Applicant) Vs General Manager, Telecommunications, Kerala Circle, Trivandrum which reads as follows:

"The scheme relating the compassionate appointment is for alleviating the hardship that may be caused to the family of a Government servant who is suddenly retired on medical ground. It is to compensate the indigent circumstances of the family that the provision has been made for appointing the son, daughter or the near relative of the Government servant. It is also to be noted that such appointment can be made only if the son, daughter or near relative is eligible for appointment.

In the instant case, the request of the applicant for appointment was duly considered by the High Power Committee constituted for the purpose. It is seen that the Committee took note of the intention of the scheme and was of the view that the applicant cannot claim the appointment. The question of eligibility of the applicant was also considered with due regard to the provision enabling relaxation. The Committee was not in a position to appreciate for compassionate relaxation of the normal recruitment rules.

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Para 6 of the Office Memorandum dated 25.11.1978, dealing with the compassionate appointments provide that, in ~~xx~~ exceptional cases, when the Department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be extended to the government servant retired on medical ground. It is to be noted that the provision is by way of extension of the benefit of compassionate appointment in the case of a deceased government servant. It is only in exceptional cases that the son, daughter or near relative of the government servant retired on medical grounds can be given compassionate appointment. So also, in view of para 3 of the OM (of 25.11.78) it is only where the Department deem fit in the context of the impecunious situation of the family, relaxation of the age limit is to be allowed. These are matters on which the Department is to bestow its attention and to arrive at a decision and as long as such consideration is had, the conclusion arrived at as a result thereof is not open to judicial review unless it is established that the matter has been considered in the proper perspective or that the question ^a has been arrived at arbitrarily.

6. We reject the application".

The observations made in the said judgement of the Madras Bench applies ~~on~~ all fours to the facts of this case. So in view of the position explained in the said Madras Bench Decision, we do not think that the applicant is fit person to be appointed on compassionate grounds.

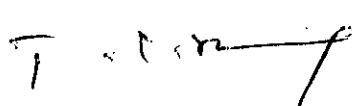
7. The learned counsel appearing for the applicant - Sri Chandramouli, vehemently contended that for the marriage of ~~his~~ his daughter, the retired official had incurred loans and that the family is not able to ~~settle the said loans~~ and hence, ~~this~~ is a fit matter to offer appointment to the applicant on compassionate grounds to extricate the family from the situation in which it is placed. As could be seen from the written

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statement, the applicant has shown as his liabilities a sum of Rs.50,000/- said to have been spent for the marriage of his daughter and second son. He has also shown that there are dues to the Co-op.Society amounting to Rs.6,000/-, loan to Andhra Bank Rs.5,000/- and Co-op.Central Bank Rs.6,000/-. In his representation dated 12.3.1991 which the applicant herein has submitted to Sub Divisional Inspector (P), Yellamanchali Sub Division, Yellamanchali, praying for appointment, on compassionate grounds, the applicant has shown that the hand loans which the family is having is upto a tune of Rs.31,922/- (Page 6 of the annexure to the OA) We are prepared to believe that towards marriage expenses of second son and daughter an amount of Rs.50,000/- had been spent and hand loans had been incurred for performing the said marraiges as contended by the applicant. As already pointed out, the family of the applicant's father Sri K. Ramu Naidu is owning a house to live in which fetches a rent of Rs.2400/- p.a., 5 acres of wet land which gets an annual income of Rs.5000/-. The applicant's father has also received retirement benefits in cash to which a reference has already been made. So, taking into consideration the overall picture of the position of the family of Sri K. Ramu Naidu, father of the applicant herein, it is very difficult to accept the fact that the family is indigent and under distress and that unless the benefit of compassionate appointment is extended to the family that the family will not be in a position to survive.

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8. We would like to mention here that the Government is not obliged to provide compassionate appointment if there are earning members in the family of the invalidated employee unless there are compelling circumstances. This Tribunal cannot substitute its discretion in the matter of compassionate appointments if the discretion by the competent authority has been exercised reasonably. In our opinion, the discretion of the competent authority in refusing appointment to the applicant on compassionate grounds had been exercised reasonably and on proper grounds. Hence, we see no merits in this application and the application is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, the parties are directed to bear their own costs.

T. C. R.
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 14 February, 1992 85/392 Dy. Registrar (J)

To

1. The Director General,
Dept. of Posts, Dak Bhavan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Andhra Pradesh Circle,
mvl Abids, Hyderabad.
3. The Superintendent of Post Offices,
Anakapalli Division, Anakapalli (PO) A.P.
4. One copy to Mr. M.P. Chandramouli, Advocate,
Advocates Association, High Court of A.P. Hyd.
5. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
6. One spare copy.

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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: 14-2-1992 ✓

ORDER/JUDGMENT:

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

in

O.A.No. 914/91 ✓

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.

P.V.M.

