

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

M.A No. 300/93 in H.A 37/93 in
O.A. No. 1045/91

Date of Order: 9.7.1993

BETWEEN :

M.Srikanth

.. Applicant.

A N D

1. Union of India,
Represented by
Director-General,
Telecom, New Delhi.
2. The Chief General Manager,
Telecom, AP, Hyderabad.
3. The Telecom District Engineer,
Warangal - 506 050. .. Respondents.

Counsel for the Applicant

.. Mr.C.Suryanarayana

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:HON'BLE SHRI T.Chandrasekhara Reddy, Member (Judl.)

HON'BLE SHRI P.T.Thiruvengadam, Member (Admn.).

T.C.R

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S. B. G.

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JUDGMENT OF THE SINGLE MEMBER BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 claiming a relief to direct the respondents to grant compassionate appointment as Junior Telecom Officer or in any other suitable post in relaxation of the relevant recruitment rules, if necessary by creating a supernumerary post.

2. The brief facts of the case are as follows:-

The father of the applicant who was Telephone Supervisor in the Telephone Exchange at Warangal, passed away on 16.1.1989 leaving his wife, his mother, his mother-in-law and his two sons in a destitute condition. He suffered from diabetes and later from kidney trouble for over five years and spent huge amounts for his treatment aggregating to about Rs.1,00,000/- by borrowing from his near relations and friends as he had no other source of income except his salary and a monthly rental amount of Rs.500/- on a portion of the house which he constructed. Though a family pension of Rs.900/- per month was sanctioned and the family was also granted DCRG of Rs.47,158/-, and other amounts aggregating to Rs.77,594/-, the whole amount was absorbed in the loans incurred by his late father for his treatment. Some loans of nearly Rs.25,000/- are to be cleared. Hence, the family is in indigent circumstances.

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3. The first son of the deceased made a representation for compassionate appointment but his request was rejected vide 3rd respondent's letter dated 28.11.1989 without any reasons. Thereafter, the wife of the deceased made a representation on 19.2.1990 stating that rejection of her 1st son's representation caused him great mental depression leading to loss of control over himself and hence, her 2nd son may be considered for an appointment on compassionate ground in relaxation of the recruitment rules. The applicant is the 2nd son of the deceased. Meanwhile the 1st son of the deceased (elder brother of the applicant) committed suicide due to extreme depression. Subsequently, the applicant submitted a representation dated 20.5.1991 requesting for compassionate appointment and the same was also rejected by the impugned order dated 30.10.1991. Hence this application.

4. The respondents filed a counter affidavit. The brief contents of the counter are as follows:-

The request of both the 1st and 2nd son of the deceased Government servant was rejected by the Circle Selection Committee for the reason that family of the deceased is not in indigent circumstances as they are in receipt of the following amounts:-

Family Pension : Rs.900/- + Relief Rs.500/- as rent.
D.C.R.G. : Rs.57,000/-
Group Insurance : Rs.21,788/-
PLI Policies : Rs. 7,273/-

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The compassionate appointments are made to certain percentage of posts. Such appointments are given to the families of deceased Government servants which are really in indigent circumstances. The family of the deceased is not in indigent circumstances and hence his request was rejected which is in order.

5. Heard the learned counsel for the applicant, Mr. C. Suryanarayana and the learned Additional Standing Counsel for the Respondents, Shri M. Jagan Mohan Reddy.

6. The fact that the family of the deceased were in receipt of pensionary benefits amounting to nearly Rs. 86061/- in addition to family pension @ Rs. 900/- + relief Rs. 500/- per month as rent, is not in dispute. As per the scheme of compassionate appointments, receipt of pensionary benefits and ~~xxx~~ monthly pension are not disqualifications for considering the case of compassionate appointment, as held by the Hon'ble Members of the Central Administrative Tribunal, Calcutta Bench reported in 1989(3) SLR CAT 166 (Adhir Kumar Nath Vs. Union of India and others). No doubt, the retirement benefits/pensionary benefits need not be taken into consideration ~~xxx~~ while giving the compassionate appointment but it can better be applied depending upon the facts and circumstances of a given case.

7. Compassionate appointment is not a vested right but meant to provide for the immediate need of dependents who are in indigent circumstances. The indigent circumstances should be weighed depending upon the circumstances of each and every case.

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8. It is stated by the applicant that his father suffered from diabetes and later from kidney trouble for over five years and spent huge amounts by borrowing from his near relations and friends and the pensionary benefits received by the family were absorbed in the loans and some loans of nearly Rs.25,000/- are to be cleared.

9. In AIR 1989 SC 1976 (Smt. Sushma Gosain and others Vs. Union of India and others) and the Judgment in 1991 Lab.I.C. 392 Supreme Court, "Smt. Phoolwati Vs. Union of India and others", their lordships even stated that supernumerary post should be created for compassionate appointments and no delay should be made and these two Judgments were followed with approval in the case of "Smt. Asha Devi Srivastava Vs. Union of India and others (AISLJ 1992(1) CAT 38), by the Central Administrative Tribunal, New Delhi.

10. The learned counsel for the applicant contended that the impugned order dated 30.10.1991 rejecting the claim of the applicant for compassionate appointment is not a speaking order nor shows the application of mind. The order dated 30.10.1991 reads as follows:

"The undersigned is directed to refer to your letter No.TAW/ST/7-3/IV/51, dated 5-7-91 on the subject mentioned above and to say

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that the case of Sri M. Srikanth, has been considered by the Circle Selection Committee and it has been decided to REJECT the request for appointment on compassionate grounds in relaxation of recruitment rules in this case.

The applicant may please be informed accordingly."

From the above, it is clear that the claim has been rejected in arbitrary manner without assigning any reason.

11. In this connection, it is pertinent to cite a decision of the High Court of Allahabad reported in "I (1991) CSJ (HC) 318, Nanki Devi and another Vs. Food Corporation of India and others", wherein his lordship observed-

"In my opinion, the petitioners by means of the affidavit filed by them and other documents fully established their claims and the authorities made a favourable recommendation for giving appointment under class III or class IV as found suitable by the authorities. However, the claim has been rejected in arbitrary manner without assigning any reason."

12. Following the above guidelines laid down in the decisions cited supra, I am of the opinion, that the claim

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of the applicant cannot be rejected in a mechanical manner as has been done by means of the impugned order.

13. Summing up, for the reasons mentioned above, the case of the applicant deserves for compassionate appointment. I, therefore, direct the respondents to consider the case of the applicant for an appointment on compassionate grounds within a period of three months from the date of receipt of a copy of this order, as per the rules and as per the original claim basing on the earlier qualification.

14. The application is accordingly disposed of with no order as to costs.

W.M
(C.J.ROY)
Member(Judl.)

Dated: 24th September, 1992.

8309/32
Dy. Registrar (Judl.)

Copy to:-

1. Director General, Telecommunications, Union of India, New Delhi.
2. The Chief General Manager, Telecommunications, A.P.Hyd.
3. The Telecom District Engineer, Warangal.
4. One copy to Sri. C.Suryanarayana, advocate, CAT, Hyd.
5. One copy to Sri. M.Jagan Mohan Reddy, Addl. CGSC, CAT, Hyd.
6. One spare copy.
7. *one copy to D.R.J)*

Rsm/-

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① 27/10/1991
TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

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

AND

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

AND

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

Dated:

24/9/1992

ORDER / JUDGMENT

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

in

O.A. No.

1075741

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 orders as to costs.

pvm.

