

24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 769/94.

Dt. of Decision : 7-9-94.

Mr. G. Babu Rao

.. Applicant.

vs

1. Chief of the Naval Staff,
Naval Headquarters,
Sena Bhavan,
New Delhi.
2. Flag Officer,
Commanding in Chief,
Eastern Naval Command,
Naval Base,
Visakhapatnam.
3. The Admiral Superintendent,
Naval Dockyard,
Visakhapatnam.

.. Respondents.

Counsel for the Respondents: Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

25

.. 2 ..

O.A.No.769/94:

Dt. 7.9.1994

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

The prayer in this application is for a direction to the respondents to provide a suitable ~~compassionate~~ grounds declaring that the proceedings No.PIR/2402/S1-193, dated 14.6.94 of the 3rd respondent is arbitrary, illegal and unjustified.

Briefly stated the facts are as follows:

M.T.Driver, Grade-II under the respondents died while in service on 23.1.84. As the family consisting of 8 members were driven to extreme indigence, the respondents considered the case for compassionate appointment and gave a casual engagement to the elder son of Nookayya by name G.Raju w.e.f. 29.10.84. Unfortunately G.Raju also met with a train accident on 14.5.86. The family was again driven into extreme indigence. The widow of Nookayya brought to the notice of the ~~authorities~~ the family the applicant was offered casual jobs. As the casual employment given to the applicant was also ~~stopped~~ the claimed compassionate appointment. Finding no response he caused a lawyer notice to be issued on 2.5.94. In reply to this lawyer notice on 14.6.94 the applicant was informed that the request of the applicant for compassionate appointment was rejected by the Naval Headquarters. The rules regarding grant of compassionate appointment does

96

.. 3 ..

not cover the case of a brother of employee dying in harness. It is also stated in the reply that the applicant was informed of this decision of the Headquarters by letter dated 18.2.91. It is under these circumstances that the applicant has filed this application.

3. When the application came up for hearing on admission, admission was opposed by the respondents that it is barred by limitation, but adverting the fact that the applicant was aggrieved by the order dt. 14.2.92 and that even after 1991 the applicant was given casual engagement. The Division Bench held that the application is within time. The respondents were given 4 weeks time to file a reply. But no reply. --

4. When the application came up for final hearing today though the reply statement has not yet been filed Mr. N.R. Deyraj, Standing Counsel for the respondents submitted that he had got all material and that a draft reply has also been prepared by him. The contention of the respondents is that in accordance with the scheme for grant of compassionate appointment the brother is not entitled to appointment under the scheme and that therefore the applicant has no right to claim appointment on the death of his deceased brother. It is further contended that on consultation with the Naval Headquarters has held that compassionate appointment is given only to widow, son, daughter etc. and as a brother is not entitled for compassionate appointment the applicant has no right to claim such appointment.

5. I have given careful consideration to the averments of the application and the facts brought to my notice by the learned counsel for the respondents. Even

according to the impugned order as also in accordance with the facts brought to my notice from the draft reply statement the respondents did not dispute the fact that the family of the applicant is in under indigent circumstances. The very fact that the Naval Dockyard had engaged the applicant for casual work and had recommended his case for appointment on compassionate grounds indicates that the department was convinced of the need to render assistance to the family to meet the pressing problem of existance. Hence undoubtedly the case is one which needs consideration for compassionate appointment and grant of compassionate appointment if the provisions contained the scheme permit such an appointment. Learned counsel for the respondents argued that as the ~~claim~~ of the applicant for compassionate appointment is based on the death of his brother, and as the scheme for compassionate appointment does not provide for giving such appointment to a brother of the deceased government servant the applicant's claim does not fall under the purview of the scheme at all. This argument may appear to have some force on technical ground; but on a detailed and careful appraisal of the entire circumstance of the case argument. I find it impossible to accept that If the dependant family of a person who died in harness deserve against employment assistance on compassionate ground, normally such appointments are made on a regular basis in relaxation of the normal recruitment rules. When the applicant's father died applicant's brother Raju was not given a regular appointment in relaxation of recruitment rules. It is true that by providing deceased Raju with some casual engagement the family was given some assistance but it was not a proper employment assistance in accordance with the scheme. However, what little help the family got by providing casual engagement to Raju has also been taken away by the cruel stroke of fate. Under these

(28)

... 5 ..

circumstances I am of the view that the technical stand taken by the respondents is not in conformity with the spirit of the scheme for providing compassionate appointment and that this is one of the most deserving case in which compassionate appointment should be given.

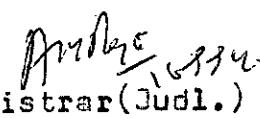
In the result the application is allowed and the respondents are directed to consider the applicant for appointment on a suitable post on compassionate grounds as expeditiously as possible and any how not latter within a period of 6 months from today. The parties shall bear their own costs.



(A.V. HARIDASAN)
Member (Judl.)

Dated: 8th September, 1994

(Dictated in Open Court)



Dy. Registrar (Judl.)

sd

Copy to:-

1. Chief of the Naval Staff, Naval Headquarters, Sena Bhavan, New Delhi.
2. Flag Officer, Commanding in Chief, Eastern Naval Command, Naval Base, Visakhapatnam.
3. The Admiral Superintendent, Naval Dockyard, Visakhapatnam.
4. One copy to Sri. S.Kishore, advocate, 3-6-369/A/12, 1st Street, Himayatnagar, Hyd-29.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

OA-769/94

Typed by

Compared by

Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIKANAN : MEMBER(J)

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 7/9/94

ORDER/JUDGMENT.

M.L./R.P/C.P/No.

D.A.NO.

769/94

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

No separate copy

YLKR

