

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A. 713/94

Dt. of order:08.06.94

Between

Sri K.John .. Applicant

and

1. The Director General,
Telecom

2. The Chief General Manager,
Telecom
AP, Hyderabad
3. The Telecom Distt.Engineer,
Cuddapah .. Respondents

Counsel for the Applicant :: Mr C. Suryanarayana

Counsel for the Respondents :: Mr K.Bhaskara Rao, CGSC

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

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

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25/7/94

ORDER

(As per Hon'ble Shri A.B.Gorthi, Member(Admn))

This is an application for appointment on compassionate grounds. The father of the applicant died on 11.11.1972 while working as a Line Man under the SDO, Telecom Tirupathi. At the time of the death of the employee, the ~~with some difficulty~~ that, his mother, who is hardly ~~a~~ literate, brought him up and educated him upto intermediate. As soon as the applicant attained majority, his mother represented to the authorities concerned requesting an appointment to her son on compassionate grounds. She also approached the Hon'ble Minister for Home, AP State, for intervention. We find from the records, a letter addressed to the Minister for Home, AP State, by the Chief General Manager, Telecommunications, stating that the case of the applicant was considered and recommended by the Screening Committee. But as the request was made belatedly, the matter had to be referred to the Directorate for condonation of delay. The Directorate, where the matter was examined, rejected the request.

2. Heard learned counsel for both the parties. As there was a delay of about 137 days in filing the OA from the date of rejection of the Directorate for compassionate appointment, MA 45/94 is filed seeking condonation of the delay.

3. Mr C. Suryanaryana, learned counsel for the applicant states that the widow, ^{who} belongs to a remote village of AP, ^{and} hardly had ^{the} knowledge about seeking appointment for herself on compassionate grounds. However, as soon as her son

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became major, she began to approach the concerned authorities requesting for an appointment to her son.

4. The question of constitutional validity of giving appointment on compassionate grounds came up for detailed discussion before the Hon'ble Supreme Court in the case of Auditor General and others Versus G. Ananta Rajeswara Rao reported in 1994 SCC (L&S)500. Relevant portion of the judgement is re-produced below:

→ appointment on compassionate ground to a son, daughter or widow to assist the family to relieve economic distress by sudden demise in harness of government employee is valid. It is not on the ground of descent simpliciter, but exceptional circumstance for the ground be mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the Memorandum limiting to relieve the members of the deceased employee who died in harness from economic distress. In other respects Article 16(2) is clearly attracted."

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5. From the above, it would be apparent that compassionate appointment to a son or daughter or widow immediate would be permissible only if he or she "is in/need of assistance on the death of the employee." If appointment on compassionate grounds is sought after/lapse of a long period of about 18 years, it would be more in the nature of claiming appointment on the ground ^a ~~of~~ descent only and hence, would be violative of Article 16(2) of the Constitution.

6. Our attention has been drawn to Para 7 of Department of Personnel and Training OM No.14014/6/86-Estt.(D) dated 30.6.87. It permits the Ministry/Department to consider the requests for compassionate appointments even where the death took place long ago, say, 5 years or so. Examination of such a case, however, has to be done at the level of Secretary only. In the instant case, it appears that the request is turned down by the Department; but, it is not clear whether it was examined at the level of the Secretary. In any case, in view of the categorical directions given by the Hon'ble Supreme Court that the present policy of giving appointment on compassionate grounds should be circumscribed with suitable modifications limiting it to relieve the ^{family of the} Members of the deceased employee who died in harness from distress, we need not go by Para 7 of the OM aforesaid.

7. On the death of the employee, if the family was in such indigent circumstances, it was open to the widow to seek appointment on compassionate grounds. She did not do so, may on account of her ignorance. It was only after her son attained majority that she began to approach the authorities concerned for appointment on compassionate grounds. This is not a case, where the appointment has got to be made on the ground that the family needed immediate assistance on t

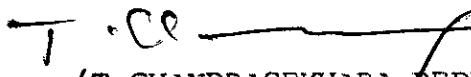
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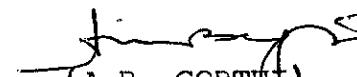
death of the employee. In view of this, we are unable to accede to the request of the applicant for a direction to the respondent to consider his request for appointment on compassionate grounds. Hence, the OA is rejected.

8. As the OA is rejected, no useful purpose will be

~~...served in allowing the OA which is for condonation of delay.~~

9. No costs.

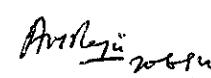

(T.C. CHANDRASEKHARA REDDY)


(A.B. GORTHI)

Dated: The 8th June, 1994

(Dictated in the Open Court)

mvl


Amulya Reddy
DEPUTY REGISTRAR(J)

Copy to:-

New Delhi - 110 001.

2. The Chief General Manager, Telecom, A.P., Hyderabad.
3. The Telecom District Engineer, Cuddapah.
4. One copy to Mr.C.Suryanayayana, Advocate, CAT, Hyderabad.
5. One copy to Mr.K.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

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25/6/94*

C. Suresh

O.A.713/84.

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

~~VICE CHAIRMAN~~

AND

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

AND

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

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 8 - 6 - 1994.

ORDER/JUDGMENT:

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

*7/3 in
O.A.No. 8/94*

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

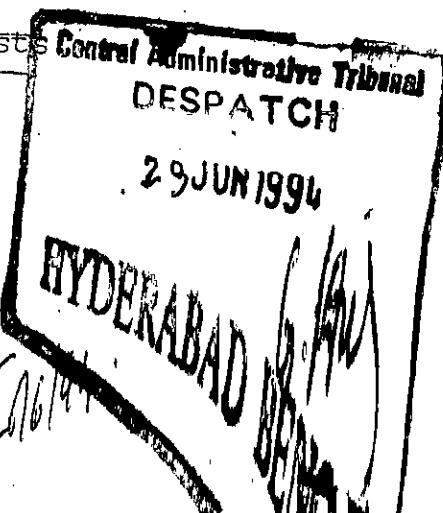
Disposed of with directions
Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs



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