

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

O.A.1505/96

Date: 30.12.1996

Between:

G. Gowramma

.. Applicant

and

1. Union of India, rep. by  
Secretary,  
M/o Commerce, N.Delhi.
2. Tobacco Board, Tuntur,  
rep. by Chairman and  
Managing Director.
3. Personnel Officer,  
Tobacco Board, Guntur.
4. Mrs. Thota Kalawathy,  
R/o Venkatapuram,  
Athmakur Mandal, Warangal. ... Respondents

Mr. B.S.A. Satyanarayana

.. Counsel for applicant

CORAM

HON'BLE MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

O R D E R

The applicant, G. Gowramma, is the mother of deceased G. Rajaiah who was employed as a Peon under Respondents 2 and 3 and who died in harness on 5.2.92. The applicant submitted an application on 1.3.92 to Respondent-2 praying for compassionate appointment of her second son G. Anjaiah who was unemployed and would look after the family as the deceased was the sole bread earner of the family. Respondent-3 by letter dated 22.12.93 informed the applicant that she should produce consent letter of Smt. T. Kalawathy, the widow of deceased Rajaiah in favour of the applicant's son and her unwillingness to accept employment in Tobacco Board.



2. The applicant contends that the said T.Kalawathy has re-married and therefore the family pension which was being paid to her was stopped by the respondents at the instance of the applicant and although the applicant repeatedly requested her to give her consent she avoided to do so. Eventually, according to the applicant, she sent a legal notice to the said T.Kalawathy on 19.2.96 stating therein that if she failed to reply to the notice within a week from its receipt it would be construed that she has accepted the allegation of marriage. The applicant has produced a copy of reply received from Hyderabad Customer Care Centre of the Postal Department which shows that the said registered notice was delivered to the addressee on 7.3.96. It is therefore contended by Mr. Satyanarayana, the learned counsel for the applicant, that the respondents should have considered the request of the applicant for compassionate appointment, but as they have not done so, they may be directed to consider the application of the applicant for appointment of her second son on compassionate grounds in the service of the respondents.

3. It is unfortunate that the respondents having indicated that they were not averse to consider the application of the applicant for compassionate appointment of her son and had merely wanted the applicant to produce the consent of the widow of deceased Rajaiah to the appointment of the second son of the applicant or alternatively her unwillingness to seek such an employment herself, and even after the applicant had taken the step of sending a legal notice to the said T. Kalawathy, the applicant has not properly pursued the matter with the respondents and straightaway has chosen to approach the Tribunal. In the first place, the legal notice was to be in consonance with the requirement postulated by

*WKC*

Respondents' letter dated 22.12.93. However, <sup>copy of</sup> ~~the~~ notice shows that far from informing the said T.Kalawathy that if a reply was not received within a week it shall be construed that she has no objection to the appointment of the second son of the applicant and that she was not interested therein, the applicant wanted her to confirm the fact that she had re-married by saying that if a reply was not received within a week it would be construed that "you have accepted the allegation of marriage". Despite this deficiency and merely relying on the fact of service of the legal notice the applicant did not inform Respondent-3 in response to his letter dated 22.12.93 that the service of the notice and the letter of the Postal Department about delivery of the notice to T.Kalawathy should be construed as her consent and therefore the application of the applicant may be proceeded with and compassionate appointment to her second son may be considered. <sup>but has instead</sup> ~~the applicant has~~ approached the Tribunal.

This is not therefore a stage where the Tribunal can take cognisance of the matter when the applicant has not taken the necessary steps to comply with the requirement intimated to her by the respondents by letter dated 22.12.93.

4. The learned counsel for the applicant submits that a copy of the legal notice sent to T.Kalawathy was sent to Respondent-3. In my opinion that is of no consequence to hold the respondents responsible for not proceeding with the application of the applicant in as much as the notice itself did not seek consent of the said T.Kalawathy, nor mere copy of the notice could amount to informing the respondents that the consent of T.Kalawathy was required to be implied from her failure to reply the said notice. No fault therefore can be found with the respondents and therefore it cannot be

*MA*

said that any cause of action has been disclosed to entertain this application, although the applicant appears to have a good case for sympathetic consideration of her request for compassionate appointment of her second son with the respondents

5. At this stage, Mr. Satyanarayana submits that the applicant may be allowed to remove the deficiencies and approach the respondents properly and for that purpose the O.A. may be allowed to be withdrawn. In that connection the learned counsel states that he will advise the applicant to issue a fresh legal notice to T.Kalawathy specifically requiring her to give her consent to the appointment of applicant's second son on compassionate grounds with respondents 2 and 3 and also to indicate her unwillingness to apply to that appointment for herself and further intimating her that in the absence of any reply being received from her within a stated time it will be presumed that she has no objection to the appointment of applicant's second son and then, the learned counsel states that, he will advise the applicant to obtain a certificate from the postal authorities about the delivery of the notice which will be sent by registered/A.D. in case T.Kalawathy fails to reply within the stated time and thereafter the applicant will be advised to reply to the letter of the respondents dated 22.12.93 and request the respondents 2 & 3 to proceed further with the consideration of her application for appointment of her second son under the said respondents on compassionate grounds. The learned counsel submits that it may be left open to the applicant to approach the Tribunal in the event of official respondents either refusing the application or not passing any order thereon within a reasonable time.

will

6. In my opinion the above steps should have been taken before filing this O.A. which would have avoided unnecessary delay. However, unless this is done, the O.A. cannot be entertained. Having regard to these circumstances, the following order:

O R D E R

The O.A. is allowed to be withdrawn with -

- (i) liberty to the applicant to approach the respondents for consideration of her request in the light of above observations, and
- (ii) liberty to file fresh O.A. in the event of final rejection of the application of the applicant for compassionate appointment of her second son.

7. O.A. is accordingly disposed of.

*M.G. Chaudhari*  
M.G. Chaudhari (J)  
Vice Chairman

*3.1.97*  
DY.REGISTRAR (JUDL)

30th December, 1996

vm

(8)

O.A.1595/96.

Copy to:-

1. Secretary, Ministry of Commerce,  
New Union of India, New Delhi.
2. Tobacco Board, Tuntur,  
rep.by Chairman and Managing Director,
3. Personnel Officer, Tobacco Board,Guntur.
4. Mrs.Thota Kalwathy,  
R/o Venkatapuram, Athamakur Mandal,  
Warangal.
5. One copy to Mr.B.S.A.Satyanarayana, Advocate,  
CAT.Hyd.
6. One copy to Standing Counsel for Central Govt.
7. One copy to Library,CAT.Hyd.
8. One spare copy.

kku.

27/1/97

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI  
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD  
MEMBER (ADMIN)

Dated:

30-12-1996

ORDER / JUDGMENT

M.A./F.A/G.A. No.

In

C.A. No.

1505/98

T.A. No.

(V.P.)

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal बेचन / DESPATCH 27 JAN 1997 हैदराबाद न्यायपीठ HYDERABAD BENCH
---