

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ORIGINAL APPLICATION NO. 180/00926/2014

Friday, this the 28th day of September, 2018

CORAM

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER

1. Omana.A, aged 57 years, W/o.Thulaseedharan
Unit Assistant, Staff No.A 509, Sree Chitra Tirunal Institute
For Medical Sciences & Technology
Thiruvananthapuram – 695 011
Residing at LC Bhavan, T.C. 14/992, Chennilode
Kumarapuram, Medical College P.O
Thiruvananthpauram-695 011
 2. Chinchumol O.T, aged 24 years
D/o.Omana.A
Residing at LC Bhavan, T.C.14/992
Chennilode, Kumarapuram
Medical College P.O
Thiruvananthapuram – 695 011
- ... **Applicants**

[By Advocate Mr.Anand S.A & Mr.V.Varghese]

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1. Union of India, represented by Secretary to Government
Ministry of Science & Technology,
Technology Bhavan, New Mehrauli Road
New Delhi- 110 016
 2. Sree Chitra Tirunal Institute for Medical Sciences & Technology
Thiruvananthpauram-695 011 represented by its Director
 3. The Governing body,
Sree Chitra Tirunal Institute for Medical Sciences & Technology
Thiruvananthapuram – 685 011 represented by its Chairman
- ... **Respondents**

(By Advocate Mr.N.Anilkumar,Sr.PCGC(R) for R-1 & Mr.T.R.Ravi for R 2&3))

This application having been finally heard on 26.9.2018, the Tribunal on 28.9.2018 delivered the following in the open court.

ORDER

Per: MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Original Application No.926/2014 is filed by Mrs.Omana.A and Ms.Chinchumol.O.T against the refusal on the part of respondent no.2 in allowing the invalid pension for applicant no.1 as well as not considering applicant no.2's claim to be appointed on compassionate grounds in the place of Applicant No.1. The first applicant submits that she is a member of Scheduled Caste community and had joined the service of Sree Chitra Tirunal Institute for Medical Sciences & Technology as a Cleaner on 25.8.1983. Subsequently, on being promoted as Unit Helper, she continued in service but was frequently affected by ill-health. She was denied any relief as per Annexure A-1.

2. On 29.6.2012, the first applicant suffered Left Anterior Clinoidal Meningioma. After treatment she was discharged from the hospital on 16.8.2012 but her one side was totally paralysed and she was completely bedridden. Due to this reason, applicant's husband Shri.V.Thulaseedharan made a representation to respondent no.2 on 30.10.2012 to sanction invalid pension to the applicant and also to consider compassionate appointment to their daughter who is the 2nd applicant [Annexure A-3 and Annexure A-3(a)].

3. A reply statement was submitted on behalf of respondent no.2 dated 22.1.2013 stating that invalid pension (on medical grounds) is applicable when an employee is retiring before attaining the age of 55 years in the case of Group C officials and since the first applicant is under Group C and that she is above

55 years, her dependent is not eligible for compassionate appointment. If the first applicant is still desirous of pursuing her claim for invalid pension, she may present herself before the Medical Board with supporting documents (Annexure A-5).

4. Thereupon, first applicant chose to approach the Governing Body of the Institute i.e, respondent no.3, pressing her claim. However, respondent no.2 rejected the said request by letter dated 27.5.2014 stating that there is no provision in the rules for relaxing the condition for appointment on compassionate grounds of dependant family member, if the said person is proposing to retire on medical grounds after attaining 55 years (Annexure A-7). However, a representation was made by applicant no.1 in 2014, but the Director declined to forward the first applicant's representation to the Department of Science & Technology and issued a reply dated 21.7.2014 (Annexure A-9).

5. As grounds, first applicant submits that due to a serious disease, she is unable to continue in service and wanted to take advantage of the provision relating to appointment under compassionate grounds. Under the said provision, she has sought appointment to the 2nd applicant who is her daughter. The first applicant had been a Group D employee and by virtue of implementation of 6th Central Pay Commission, 2006 she came to be included under Group C though her nature of work is that of Group D. She claims that benefits entitled for Group D employees should be extended to Group C employees with respect to the eligibility for invalid pension and compassionate appointment to the dependents. The benefit of compassionate appointment cannot be discriminated

on the basis of age and it would be unjust to insist that a Group C employee has to be invalidated before attaining 55 years whereas Group D employee can wait up to 57 years for invalidation. It is further submitted that the Governing Body (respondent no.3) is competent to modify, amend and exempt the rigour of the Service Rules. The said body had granted exemption in the case of certain other employees and considered their cases for granting compassionate appointment.

6. The relief sought in the Original Application is as follows:-

“ (i) To call for the records leading to Annexures A7 and A9 and quash the same

(ii) To issue a direction to the 2nd respondent to grant invalid pension to the 1st applicant

(iii) To issue a direction to the 2nd respondent to give a suitable appointment to the 2nd applicant based on her qualification, under compassionate grounds

(iv) To declare that the restriction imposed on Group C employees to get invalidated before attaining 54 years for getting appointment under compassionate ground to their dependents is illegal, arbitrary and unconstitutional

(v) To issue such other orders, or directions as this Tribunal may deem fit and proper in the circumstances of the case.”

7. Respondent no.2 has filed a reply statement wherein the facts of the first applicant's service are not denied. In respect of the claim made by the first applicant it had been turned down on the ground that she was above 55 years and would attract rejection as per existing Rules of Government of India. The Central Civil Services (Pension) Rules 1972 has been adopted by the Institute and as such, the Institute is bound to follow the Government of India's Rules in

the matter of pension and other benefits.

8. Rejoinder was filed by the applicants wherein the facts mentioned in the O.A have been reiterated. The first applicant applied late for being declared invalid only because the medical board could not find out real cause of her disease. This resulted in her going beyond 55 years when she finally became entirely laid up. The reply statement has also not replied to the charge made in the O.A that in the case of similarly placed employees, 3rd respondent had willingly granted benefits relaxing the conditions.

9. Heard Mr.Anand.S.A, learned counsel for the applicants, Mr.N.Anilkumar,Sr.PCGC(R), learned counsel for the respondent no.1 and Mr.T.R.Ravi, learned counsel for respondent nos.2&3 and perused the records.

10. The learned counsel for the applicant submitted that on account of a minor reason that the first applicant was marginally more than 55 years, respondent no.3 is refusing to grant her the benefit of compassionate appointment in favour of her daughter, which they could do by relaxing the provisions governing the claim. Applicant no.1 is also being denied invalid pension.

11. We have examined the case in detail. It is seen that the first step necessary in the case is for the first applicant to be declared as eligible for invalid pension. Once she is declared as invalid only, the question of granting compassionate appointment to her daughter arises with or without seeking exemption under the relevant rules. In this context communication dated 22.1.2013 at Annexure A-5

is pertinent. It is quoted below:-

“ SREE CHITRA TIRUNAL INSTITUTE FOR MEDICAL
SCIENCES & TECHNOLOGY,
THIRUVANTHAPURAM – 695011, INDIA(An Institute of
National Importance under Govt. of India)
Phone-(91)0471-2443152, Fax-(91)0471-2446433, 2550728.
Email-sct@sctimst.ac.in, Web site-www.sctimst.ac.in

P&A.II/77/SCTIMST/2013
Registered A.D

Dtd.22.01.13

To

Mr. Thulaseedharan V.
L.C. Bhavan, T.C.14/992
Chennilodu, Kumarapuram
Medical College P.O.
Thiruvananthapuram

Sir/Madam,

Sub: Request for Invalid Pension & Compassionate
appointment-reg

Ref: Application submitted by Mr. V. Thulaseedharan, H/o
Ms. Omana A., E Code-509, Unit Helper—C

Director had considered your application and I am directed to inform you that as per CCS (Pension) rules, compassionate appointment of dependent is applicable when retired on invalid pension (medical grounds) before attaining the age of 55 years in the case of group “C” officials. Ms. Omana A. is under group ‘C’. Her date of birth being 25.11.1956, she is above 55 years. Hence her dependent is not eligible for compassionate appointment as per the existing rules, even if she is granted invalid pension.

In this context, if Ms. Omana.A still desires to be subjected to medical board for invalid pension, she may be asked to give her request with supporting documents. (emphasis supplied)

Yours faithfully,

Ag. Deputy Director (Admin)”

12. In order to consider her case for invalid pension, she is required to present

herself along with supporting documents before respondent no.2 or officers so designated by that authority. O.A is disposed of with a direction that applicant no.1 should do so without further loss of time. In the event of her being declared as fit for invalid pension, her case is to be presented by respondent no.2 before the governing body i.e, respondent no.3. The steps above are to be undertaken within three months from the date of receipt of a copy of this order. The first step would necessarily be for the applicant no.1 to act as directed in Annexure A-5 letter. The Original Application is disposed of with the above directions. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

- Annexure A1 - True copy of memo issued by the 2nd respondent dated 22.7.2011.
- Annexure A1(a) - True English Translation of Annexure A1.
- Annexure A2 - True copy of case summary and discharge record of 1st applicant.
- Annexure A3 - True copy of representation dated 30.10.2012 submitted before the 2nd respondent with translation A3(a).
- Annexure A4 - True copy of B.Tech Certificate of the 2nd applicant.
- Annexure A5. - True copy of letter dated 22.1.2013 issued by the 2nd respondent.
- Annexure A6. - True copy of representation dated 1.8.2013 submitted before the 2nd respondent.
- Annexure A7. - True copy of letter dated 27.5.2014 issued by the 2nd respondent.
- Annexure A8. - True copy of representation dated July 2014 submitted before the 1st respondent.
- Annexure A9. - True copy of letter dated 21.7.2014 issued by the 2nd respondent.
- Annexure A9(a). - True English Translation of Annexure A9.
- Annexure A10. - True copy of acknowledgment letter issued by the Senior Superintendent of Post Offices, Trivandrum(North Division) dated 11.9.2014.
- Annexure A11 - True copy of reply under RTI Act dated 18.3.2013
- Annexure M.A1 - True copy of the order dated 15.3.2018 in O.A / 180/926/14 passed by this Tribunal

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