

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00541/2017

Thursday, this the 4th day of October, 2018

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

Sreejith M.C., Mepparambil House, PO Kundaliyoor PO,
 Thrissur – 680 616. **Applicant**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. The Senior Superintendent of Post Offices,
 Thrissur Division, Thrissur – 680 001.
2. The Circle Relaxation Committee,
 Office of the Chief Postmaster General,
 Kerala Circle, Thiruvananthapuram – 695 033.
3. Union of India, represented by the Chief Postmaster General,
 Kerala Circle, Thiruvananthapuram-695 033. **Respondents**

[By Advocate : Mr. N. Anilkumar, Sr. PCGC (R)]

This application having been heard on 26.09.2018 the Tribunal on
 04.10.2018 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The applicant claimed relief as under:

- “1. Call for the records leading to the issue of Annexure A5 and set aside Annexure A5.
2. Direct the respondents to consider the applicant for compassionate appointment.
3. Direct the respondents to consider Annexure A11.
4. Direct the respondents to consider the applicant's claim for compassionate appointment for two more years.

5. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

6. Award the cost of these proceedings to the applicants."

2. The applicant is seeking compassionate appointment as his father late M.K.Chandran died on 5.9.2012 while working as Postman with the respondents. It is further submitted that he was the sole earning member of the family and the entire family was dependent on the income of the deceased. He has represented his case by making a representation on 3rd April, 2013 but the same was rejected by impugned order Annexure A5 dated 1st August, 2016. Reasons stated in the rejection order was that the applicant had secured only 40 Relative Merit Points (RMPs in short) whereas the last selected candidate secured 48 RMPs.

3. Notices were issued to the respondents. They have entered appearance and filed a reply statement. The stand taken in the written statement is that the applicant who died in harness is getting regular income in addition to family pension. The widow of the deceased employee is earning an average income of Rs. 10,000/- per month by way of commission. The applicant has applied for compassionate appointment at the age of 29 years. Presently he is 33 years old. As per Annexure A4 dated 3rd February, 2014 it is found from the employment certificate issued in favour of the applicant by the HRD of Emirates at UAE that he has been employed as a Cargo/ULD Equipment Operator (Driver) since December, 2011. His younger brother is also employed as Technician and regularly earning Rs. 10,834/- per month. It is further submitted by the respondents that the claim of the applicant that

his father was the sole earning member is contrary to the facts.

4. Heard Shri Vishnu S. Chempazhanthiyil, learned counsel appearing for the applicant and learned Sr. PCGC ® appearing for the respondents. Perused the records.

5. This Tribunal is of the view that as per the judgment passed by the apex court a comparative study has to be made by allotting points to the applicants who apply for compassionate appointment. The respondents have complied with this direction and allotted points accordingly which is not challenged in the present OA. During the course of arguments learned counsel for the respondents cited the following judgments of the apex court and put emphasis that no case is made out for compassionate appointment:

i) ***Union of India v. Kishore*** – 2011 (2) KLT SN 49 SC, wherein it is held that if the element of indigence and the need to provide immediate assistance for relief from financial deprivation is taken out from the clam of compassionate appointment it would turn out to be a reservation in favour of the dependents of the employee who died while in service which would be directly in conflict with the ideal equality guaranteed by Articles 14 & 16 of the Constitution.

ii) ***State of Haryana v. Rani Devi*** – (1996) AIR SCW 3002, the apex court held that compassionate appointment can only be made within the frame work of Rules, regulations or

administrative instructions.

iii) ***Food Corporation of India v. Rajaram*** – 2010 (15) SCC 366, the apex court held that it is a beneficial measure and not means of obtaining employment at the matter of rules applicable to others.

iv) ***Umesh Kumar Nagpal v. State of Haryana*** – (1994) 4 SCC 138 the apex court held that the Government or the public authority concerned has to examine the financial condition of the deceased and it is only if it is satisfied, that but for the provision of employment the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.

v) ***State Bank of India v. Rajkumar*** – 2010 (11) SCC 1 & ***MGB Gramin Bank v. Chakrawarthy Singh*** – 2013 (3) AISLJ 328, the apex court held that the scheme amended or modified as on the date of consideration of the application will govern the selection and appointment of candidates under the scheme.

6. During this stage learned counsel for the applicant submitted that the applicant cannot sit idle for getting employment on compassionate grounds and whatever chance he got applied for other employment. However, his case should be considered in terms of the Government policies.

7. Heard the learned counsel for the parties and appreciated the legal position. This Tribunal is convinced that the points allotted to the applicant is far below than the last candidate who has been selected for compassionate appointment.

8. The Original Application is disposed of with a direction to the respondents that one more opportunity be given to the applicant for considering his case for compassionate appointment. Accordingly, the respondents shall consider his case for grant of compassionate appointment in the next available committee's meeting and if no persons more indigent than the applicant is found, then the case of the applicant may be considered for appointment on compassionate grounds.

9. The Original Application is disposed of as above. There shall be no order as to costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

“SA”

Original Application No. 180/00541/2017**APPLICANT'S ANNEXURES**

Annexure A1 - True copy of the death certificate issued by the

Annexure A2 - True copy of representation dated 3.4.2013 submitted by the applicant to the 3rd respondent.

Annexure A3 - True copy of the application dated 3.2.2014 submitted by the applicant.

Annexure A4 - True copy of the representation dated 3.2.2014 to the 3rd respondent.

Annexure A5 - True copy of the communication No. B2/17/Rectt/12 dated 1.8.2016 issued by the 1st respondent.

Annexure A6 - True copy of the fair value certificate dated 21.4.2015 issued by the Tahsildar, Chavakkad.

Annexure A7 - True copy of the certificate dated 10.2.2014 issued by the Secretary, Engandiyoor Grama Panchayat.

Annexure A7(a)- English translation of Annexure A7.

Annexure A8 - True copy of the certificate dated 6.9.2013 issued by the Natika Firka Housing Sahakarana Sangham.

Annexure A8(a)- English translation of Annexure A8.

Annexure A9 - True copy of certificate dated 19.9.2016 issued by the Natika Firka Housing Sahakarana Sangham.

Annexure A9(a)- English translation of Annexure A9.

Annexure A10 - True copy of the income certificate issued by the Engandiyoor Village Office.

Annexure A11 - True copy of representation dated 10.10.2016 to the 3rd respondent.

RESPONDENTS' ANNEXURES

Annexure R1 - True copy of the copies of the consolidated lists of RD schedules presented at the Kundaliyur PO by Premavathy T.V. (OA No.2/04), the mother of the applicant herein, for the months of the June to November 2014.

Annexure R2 - True copy of the Pay Slip issued in favour of the younger sibling of the applicant.

Annexure R3 - True copy of the letter issued by the Vice President, HR Employee Services of the Emirates Company dated 19.10.2014.

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