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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00790/2017

Wednesday this the 9th day of January, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

1. K.Bhaskaran Kani,
Retired Postman, Pacha P.O.,
Residing at Salini Nivas, Elanchiyam P.O.,
Thiruvananthapuram – 695 563.
2. P.Salini,
D/o.Bhaskaran Kani,
Salini Nivas, Elanchiyam P.O.,
Thiruvananthapuram – 695 563.

...Applicants

(By Advocate Mr.Vishnu S Chempazhanthiyil)

v e r s u s

1. The Assistant Superintendent of Post Offices,
Nedumangad Sub Division, Nedumangad – 695 541.
2. The Superintendent of Post Offices,
Thiruvananthapuram South Postal Division,
Thiruvananthapuram – 695 036.
3. The Circle Relaxation Committee,
Office of the Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
4. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
5. The Secretary,
Department of Posts,
Dak Bhavan, New Delhi – 110 001.

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6. The Secretary,
Department of Personnel & Training,
North Block, New Delhi – 110 001.

...Respondents

(By Advocate Mr.N.Anilkumar, SCGSC)

This application having been heard on 19th December, 2018, the Tribunal on 9th January, 2019 delivered the following :

ORDER

The O.A was filed jointly by Shri.K.Bhaskaran, retired Postman who was medically invalidated from service (1st applicant) and Ms.P.Salini, daughter of Shri.K.Bhaskaran (2nd applicant). In this O.A the applicants have challenged Annexure A-7 communication dated 22.7.2016 by which the claim of the 2nd applicant for compassionate appointment was rejected as well as para 2 of Annexure A-10 consolidated instructions issued by the Department of Personnel and Training dated 16.1.2013 to the extent it deprives consideration of claim for compassionate appointment in respect of those government servants who are medically invalidated after 55 years of age.

2. It is submitted that the 1st applicant while working as a Postman at Pacha Post Office became seriously ill and on account of this he was medically invalidated from service. Since provision exists for granting compassionate appointment to those who have been medically invalidated from service, the 1st applicant requested for compassionate appointment for the 2nd applicant, a copy of which is available at Annexure A-1. On the basis of the said request the 2nd respondent directed the 1st respondent to collect

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necessary records for processing the claim. Accordingly the 1st respondent collected the necessary documents, but it is alleged that the same have not been forwarded to the 2nd respondent. Since nothing was forthcoming the 2nd applicant submitted a representation on 9.3.2015 (Annexure A-2) requesting for an early decision in the matter. Thereafter also the 2nd respondent, according to topmost priority, repeatedly directed the 1st respondent to forward all necessary documents. The 2nd applicant has also made a request to the 4th respondent (Annexure A-5) to take speedy action.

3. Aggrieved by the inaction on the part of the respondents the applicants had approached this Tribunal by filing O.A.No.180/661/2015 which was disposed of by this Tribunal on 1.10.2015 directing the respondents to immediately forward the application of the applicants and to place the claim of the applicants for compassionate appointment before the Circle Relaxation Committee (CRC). Pursuant to the aforesaid order of this Tribunal the CRC considered the case of the 2nd applicant in its meeting held on 23.6.2016 and vide Annexure A-7 communication dated 22.7.2016 the 2nd applicant was intimated that the scheme for compassionate appointment is applicable to an eligible dependent family member who retired on medical grounds before attaining the age of 55 and since at the time of invalidation the 1st applicant was 56 years and 4 months of age, the Committee had not recommended the case of the 2nd applicant for compassionate appointment.

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4. Against Annexure A-7 the 2nd applicant has filed representation to the Chief Postmaster General and the Secretary, Department of Posts for relaxation pointing out among other facts the abject penury, medical condition of his father and her disturbed family life. The applicants have sought the following reliefs through this O.A :

1. Direct the respondents to consider the 2nd applicant for compassionate appointment.
2. Call for the records leading to the issue of Annexure A-7 and set aside Annexure A-7.
3. Call for the records leading to the issue of Annexure A-10 and set aside para 2 of Annexure A-10 to the extent the same places restriction on consideration of claim for compassionate appointment in respect of those government servants who are medically invalidated after 55 years of age.
4. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
5. Award the cost of these proceedings to the applicant.

5. The respondents in their reply statement submitted that the 1st applicant had retired on invalidation at the age of 56 years and 4 months and as per the provisions contained in Para 2 of Annexure A-10 the request of the 2nd applicant for compassionate appointment was not recommended by the Committee. Para 2 of Annexure A-10 reads :

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To a dependent family member -
(A) of a Government servant who -
(a) dies while in service (including death by suicide); or

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(b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group D Government servants); or

(c) is retired on medical grounds under Rule 38 of the CCS (Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group D Government servants) or

6. The respondents have also brought to our notice Para 18(g) of Annexure A-10 which would reveal that the decision to fix 55 years of age was not taken without any reason. Para 18(g) of Annexure A-10 reads :

“(g) Any request to increase the upper age limit of 55 years for retirement on medical grounds prescribed in para 2(A) (b) and (c) above in respect of Group 'A'/'B'/'C' Government servants and to bring it at par with the upper age limit of 57 years prescribed therein for erstwhile Group D Government servants on the ground that the age of retirement has recently (May, 1998) been raised from 58 years to 60 years for Group 'A'/'B'/'C' Government servants (which is at par with the age of retirement of 60 years applicable to erstwhile Group D Government servants) or any other ground should invariably be rejected so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical grounds at the fag end of one's career and also keeping in view the fact that the higher upper age limit of 57 years has been prescribed therein for erstwhile Group D Government servants for the reason that they are low paid Government servants who get meagre invalid pension in comparison to others.”

7. The respondents have also submitted the details of terminal benefits paid to the applicant upon retirement on invalidation which is shown as below :

Sl.No.	Particulars	Amount (in Rs.)
1	Gratuity	3,18,630/-
2	CGEGIS – Insurance Amount	26,356/-
3	GPF Balance	1,51,226/-
	Total benefits	Rs.4,96,212/-

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8. In support of their contentions the respondents relied on the judgment of the Hon'ble Apex Court in **State of Haryana v. Rani Devi, 1996 AIR SCW 3002**, which held that compassionate appointments have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased. Further in **M.G.B.Gramin Bank v. Chakrawarti Singh, 2013 (6) SLR 227 (SC)** it has been held that appointment under dying-in-harness could not be claimed as a matter of right as no right would vest with anybody on the death of an employee in harness.

9. A rejoinder has been filed by the applicants reiterating their contentions in the O.A and stating that technicality has been made use of to deny a consideration on merits by the Circle Relaxation Committee. It is submitted that merely because the family has been sanctioned retirement benefits, the same should not be a ground to deny compassionate appointment.

10. Heard Shri.Vishnu S Chempazhanthiyil, learned counsel for the applicant and Shri.N.Anilkumar, learned SCGSC for the respondents. All pleadings and documents were perused.

11. Dying in harness scheme has been introduced in the Government organizations/departments with a view to ameliorate the suffering of the family of an employee who is either deceased or medically invalidated. With

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a view to ensure that the benefits under the scheme go to the most deserving person, a Circle Relaxation Committee (CRC) is authorized to go through the relative indigence of the concerned family in relation to other claimants. In order to ensure that such a comparison is possible, a set of guidelines have been introduced and widely published so that a balanced comparison is possible. However, in respect of the receipt of terminal benefits, the graded scale which has been adopted based on the sum obtained by the family of the employee, has come in for criticism in the **Canara Bank & Anr. v. M.Mahesh Kumar (2015) 7 SCC 412**. The Hon'ble Supreme Court has stated that a view should be taken on the eligibility of the concerned family ignoring the 'attributes' of terminal benefits. Thus the argument about a large sum of money having been disbursed to the employee's family/dependent as terminal benefits does not hold water.

12. Having stated this this Tribunal should not lose sight of other major issues involved here. The rules of the respondent organization clearly specify that an employee who retires on medical grounds before attaining the age of 55 years is alone eligible for claiming compassionate ground appointment for his dependent. The reasoning adopted for putting this limit has also been appropriately explained in Annexure A-10 which has been quoted at para 6 page 5 of this order. The fact that Shri.K.Bhaskaran Kani, 1st applicant, was medically invalidated after having reached 55 years,

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disqualifies the 2nd applicant from seeking benefits under the Compassionate Ground Appointment Scheme. The O.A is accordingly dismissed. No costs.

(Dated this the 9th of January 2019)

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00790/2017

- 1. Annexure A1** – A copy of the request dated 2.5.2014 of the 1st applicant to the 2nd respondent.
 - 2. Annexure A2** – A copy of the representation dated 9.3.2015 of the 2nd applicant to the 2nd respondent.
 - 3. Annexure A3** – A copy of the communication No.B/RLN/104 dated 17.3.2015 issued by the 2nd respondent.
 - 4. Annexure A4** – A copy of the communication No.B/RLN/104 dated 29.4.2015 issued by the 2nd respondent.
 - 5. Annexure A5** – A copy of the request dated 10.6.2015 of the 2nd applicant to the 4th respondent.
 - 6. Annexure A6** – A copy of the order dated 1.10.2015 in O.A.No.180/661/2015 of the Hon'ble Tribunal.
 - 7. Annexure A7** – A copy of the communication No.Rectt./7-18/Deptl./2015 dated 22.7.2016 issued by the 4th respondent.
 - 8. Annexure A8** – A copy of the representation dated 25.11.2016 to the respondents 4 & 5.
 - 9. Annexure A9** – A copy of the certificate dated 17.5.2014 issued by the Forest Range Officer, Palode.
 - 10. Annexure A10**- A copy of the instructions issued by the Department of Personnel and Training vide No.F.No.14014/02/2012-Estt.(D) dated 16.1.2013.
 - 11. Annexure A11** –A copy of the representation dated 25.11.2016 submitted by the 1st applicant to the Director General, Department of Posts.
 - 12. Annexure R1** – A copy of the letter dated 18.9.2015.
 - 13. Annexure R2** – A copy of the representation dated 26.8.2017.
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