

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 13th day of November Two Thousand And Eighteen

PRESENT:

THE HON'BLE MRS. JASMINE AHMED, MEMBER (J)

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1367/2018

M. Meyyazhagan,
S/o. V. Murugan (late),
No. 51, SMC Line,
Gugai, Salem- 636 006,
Tamil Nadu.

....Applicant

(By Advocate: Mr. M. Ravi)

Versus

1. Union of India Rep. by
Secretary to Government of India,
Ministry of Textiles, New Delhi;
2. The Assistant Director,
O/o. the Development Commissioner for Handlooms,
Ministry of Textiles, Udyog Bhavan,
New Delhi;
3. The Director,
Weavers Service Centre,
Ministry of Textiles,
C.I.B., Rajaji Bhavan,
Besant Nagar, Chennai- 600 090;
4. The Assistant Director (P),
Indian Institute of Handloom Technology,
Foulkes Compound, Thillai Nagar,
Salem- 636 001.

...Respondents

(By Advocate: Mr. M. Kishore Kumar)

ORAL ORDER

(Pronounced by Hon'ble Mrs. Jasmine Ahmed, Member (J))

Mr. M. Ravi, Ld. Counsel for the applicant and Mr. M. Kishore Kumar, learned counsel appearing for the respondents present.

2. This is a case where we found that the father of the applicant died on 11.11.2013 who was suffering from prolonged Kidney disease. It is seen from the pleadings that the applicant's father, deceased employee, who worked as M.T.S., made few representations to the respondents for granting him voluntary retirement as he was suffering from acute Kidney problem and to grant compassionate appointment to his son, who is the applicant herein, as the money he will be receiving towards terminal benefits would be spent for his Kidney transplant and other treatment. Counsel for the applicant also states that applicant again gave a representation dated 21.11.2012 requesting to permit the applicant to retire on voluntary retirement from service and on his representation, the respondents passed an order of retirement to be given effect from 1.3.2013. After that the deceased employee again made a representation dated 15.10.2012 and the subject of the representation reads as under:- **"Request for appointment son – on compassionate grounds in view of voluntary Retirement on Medical grounds."** On that representation, he also mentioned about the money he will be receiving will be spent on treatment and, hence, his son who is 21 years old be granted compassionate appointment to take care of the family. The respondents in pursuance of his request, passed an order dated 25.08.2014 wherein they have stated that as the deceased MTS employee had retired voluntary service with effect from 1.3.2013 (FN) under Rule 48-A of the CCS (Pension) Rules under which his son, Shri M. Meyazhagan is not eligible for appointment on compassionate grounds. The respondents again informed this thing to the applicant by way of their letter dated 6.9.2014 that he was not eligible for grant of compassionate appointment. The respondent, Asst. Director, Government of India, M/o. Textiles, O/o. the

Development Commissioner for Handlooms vide his letter dated 27.10.2014 again informed to the applicant that applicant is not eligible to be considered for appointment on compassionate ground as per the DOP& T guidelines.

3. The main thrust of the argument of counsel for the applicant herein is that the deceased employee, who was an MTS, was not very much aware of the terminology and, accordingly, he might have used the word 'voluntary retirement' instead of 'Invalid Pension'. His another limb of argument is that the deceased employee through his repeated representations requested to the respondents for voluntary retirement as well as for the grant of compassionate appointment to his son. He vehemently argues that if at that very point of time, the respondents would have informed him that on his getting voluntary retirement, compassionate appointment cannot be granted to his son, it may happen that the deceased employee would have changed his prayer accordingly. Learned counsel for the applicant argues that the representation made by the deceased employee should have been decided in totality, not on piece meal basis. He further states that if at that point of time only i.e. when the deceased employee was alive, it could have been brought to his notice or knowledge by way of rejection of grant of compassionate appointment to his son due to claim of voluntary retirement, the deceased employee might have changed his prayer and this situation would not have arisen.

4. Mr. M. Kishore Kumar, Learned counsel for the respondents argues vehemently opposing the contentions of the learned counsel for the applicant and states that once the deceased employee sought himself voluntary retirement and the respondents had adhered to that granting him voluntary retirement declining grant of compassionate appointment to his son, in this premise, there is nothing wrong, arbitrary or illegal on the part of the respondents as the respondents had acted only as per law. He also argued that the rejection is of 2014 and that the applicant should have approached this Tribunal much before for redressal of his grievance.

5. Heard the rival contentions of the parties and perused the documents and records.

6. It is undisputedly, as a matter of record, the deceased employee had sought for voluntary retirement and, accordingly, he was permitted to retire voluntarily with effect from 01.03.2013 forenoon. The argument placed by the learned counsel for the applicant that the deceased employee was not that much knowledgeable person, being M.T.S. only. It was his argument that if he would have the knowledge of implication of the use of terminology, the deceased employee would have made his request differently. It is also not the case on behalf of the respondents that the applicant was not suffering from Kidney failure or not going treatment for Kidney failure or Kidney disease. Hence, we feel that a person who was suffering from an acute disease like Kidney failure, undergoing treatment and also of a rank of M.T.S may not have that much of knowledge or implication in regard to use of terminology of words and phrases. It is also the fact that after voluntary retirement, the employee died within 9 months from the date of his voluntary retirement.

7. In the back drop of the facts and circumstances of the case, we feel that this case deserves to be treated differently with a sympathetic view. It is revealed from the representations that the deceased employee sought voluntary retirement and in lieu of that, sought compassionate appointment for his son, may be, he had not used proper terminology in his representation being employee of M.T.S. rank. It is also the contention of the learned counsel for the applicant that the decision is taken by only Assistant Director, Government of India, M/o. Textiles, O/o. the Development Commissioner for Handlooms, New Delhi and the applicant has given a detailed representation narrating all these facts, hence, his only limited prayer is that his detailed representation be considered by a higher authority taking into view the peculiar facts and circumstances of the case.

8. We have given our thoughtful consideration and felt that there is every possibility that the deceased employee without having much knowledge or law implications in use of words and phrases, used the word 'voluntary retirement'. The main prayer behind was that in lieu of his voluntary retirement, his son may be getting appointment on compassionate grounds and thereby would be able to run his family in his absence. Accordingly, we direct the Development Commissioner, Government of India, M/o. Textiles, O/o. the Development Commissioner for Handlooms, New Delhi to take a conscious decision on the representation dated 20.06.2017 taking into account the facts and observation made by this court as above by passing a detailed and reasoned within a period of three months from the date of receipt of certified copy of this order. OA. is disposed of accordingly. It is made clear that we have not commented anything on the merits of the case.

(R. RAMANUJAM)
MEMBER (A)

(JASMINE AHMED)
MEMBER (J)

Asvs.

13.11.2018