

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 17th day of July Two Thousand And Eighteen

PRESENT:

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

M.A. 310/311/2017

in

O.A./310/479/2017

&

O.A.310/479/2017

B. Sabarinath
S/o. Late Shri P. Babu,
Aged about 26 years,
R/o. 82/19-P, Tagore Street,
Dadagapalli, Salem- 636 006.

.....Applicant in both M.A. and O.A.

(By Advocate : Mr. K.M. Ramesh)

VS.

1. Union of India,
Rep. by the Chief Commissioner of Income Tax,
Income Tax Department,
Government of India,
121, Mahatma Gandhi Road,
Chennai- 600 034;
2. The Deputy Commissioner of Income Tax,
(HQRS) (Admn), O/o. The Chief Commissioner of Income-Tax,
Government of India,
121, Mahatma Gandhi Road,
Chennai- 600 034;
3. The Joint Commissioner of Income Tax,
Range -IV, Government of India,
No.4, Williams Road, Cantonment,
Trichirappalli- 620 001.

... ..Respondents in M.A. and O.A.

(By Advocate: Mr. M.T. Arunan)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard both sides.

2. The M.A. is for condonation of 996 days delay in filing the O.A. M.A. is allowed. Delay condoned.
3. This O.A has been filed by the applicant seeking the following relief:-

"To call for the records of the 2nd respondent pertaining to the impugned order issued by him bearing C.No. 26(2)/Estt/Comp/2011(25) dated 10.06.2013 and set aside the same and consequently to direct the respondents to appoint the applicant on compassionate ground in any suitable post considering his educational qualification within a time frame."
4. It is submitted that the applicant was aggrieved by the rejection of his request for compassionate appointment following the death of his father on 09.01.2003. The applicant was a minor at that time. Later, after acquiring the requisite qualification to be considered for compassionate appointment, he made Annexure A/5 representation dated 12.08.2011 for compassionate appointment. However, the respondents rejected his request on the ground that there were no vacancies available in any category in the relevant years of consideration and, therefore, the committee for appointment under compassionate grounds did not recommend his name.
5. Learned counsel for the applicant would argue that even if there were no vacancies, the authorities were fully competent to create supernumerary posts and accommodate the applicant keeping in view the penury of the

family. The rejection of the claim of the applicant only for want of vacancies was arbitrary and illegal, it is alleged.

6. Respondents have filed a reply stating that there was no provision in the rules to consider compassionate appointment in the absence of vacancies. As a matter of fact, compassionate appointments are limited to 5% of clear vacancies against DR. As there were no vacancies in the relevant years, the question of compassionate appointment would not arise.

7. I have considered the matter. Since a stand is taken by the respondents that there were no vacancies in the relevant years up to 2012, it is for the applicant to contradict this statement with reliable and adequate information and show that the applicant could have been considered for appointment within the ceiling of 5% quota for compassionate appointment. As no such evidence is produced, the O.A. is clearly misconceived.

8. It is, however, seen that the impugned order is dated 10.06.2013 and 5 more years have elapsed. It should, therefore, have been possible for the respondent authorities to consider the case of the applicant in the years after 2012 if there were vacancies. The respondents are liable to follow the latest instructions of the DOP& T according to which, there is no restriction on the number of times a case could be considered and a case once rejected could be reconsidered if the family continued to be in penury. The, respondents shall, therefore, inform the applicant whether his case was considered in the years 2013 to 2018 and if so the outcome thereof. If the applicant's case had not been submitted before the committee for

appointment during these years, respondents shall now submit the case of the applicant before the committee after due examination of the financial status of the family in each of the years from 2013 in which adequate vacancies existed for compassionate appointment. A reasoned and speaking order shall be passed within three months from the date of receipt of copy of this order.

9. O.A. is disposed of in the above terms. No costs.