

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00664/2018

Tuesday, this the 6th day of August, 2019

CORAM:

Hon'ble Mr. Ashish Kalia, Judicial Member

M.J. Jithinlal, aged 25 years, S/o. Late R.M.K Janardhanan, residing at Monkattil House, Velur PO, Trichur District- 680 601. **Applicant**

(By Advocate : Mr. Shafik M.A.)

V e r s u s

1. Union of India, represented by the Secretary, Department of Posts, Director General, Posts, Ministry of Communications, New Delhi 110 011.
2. The Chief Postmaster General, Kerala Circle, Trivandrum – 695 033.
3. The Superintendent of Post Offices, Trichur Division, Trichur – 680 001. **Respondents**

(By Advocate : Mr. S.R.K. Prathap, ACGSC)

This application having been heard on 31.07.2019 the Tribunal on 06.08.2019 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The applicant claimed relief as under:

“(i) To call for the records relating to Annexure A1 to A4 and to quash A1 being illegal & arbitrary;

(ii) To declare that the applicant is entitled to be granted compassionate appointment under the respondents consequent to the death of his father immediately and to direct the respondents to appoint the applicant in any appropriate post immediately.

(iii) To pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

And

(iv) To award costs of this proceedings."

2. The brief facts of the case are that the applicant is the son of late M.K. Janardhanan, Postman of Poothole PO who was working under the 3rd respondent. The father of the applicant died on 24.9.2014 while in service. The family consists of the applicant, his mother and a sister who is already married. At the time of death of M.K. Janardhanan the family was living in a 25 years old house owned by them which is valued at Rs. 2 lakhs by the revenue authorities. The applicant was pursuing B.Tech. course at that time. The applicant submitted an application for appointment on compassionate grounds. The respondents rejected the same as per order dated 27.9.2017 stating that there is no vacancy to accommodate the applicant. The applicant is finding it very difficult to make both ends meet right from the time of death of his father with meager family pension sanctioned to his mother. Aggrieved the applicant has filed the present OA.

3. Notices were issued to the respondents. They entered appearance through Shri S.R.K. Prathap, ACGSC who filed a detailed reply statement contending that the circle relaxation committee of the Department met on 29.6.2017 and analyzed the request of the applicant in which the applicant secured only 33 points whereas the last selected candidate has got 48 points. As the merit points secured was far below the last selected candidate, the application of the applicant was rejected. The deceased left behind his wife,

the applicant and a daughter who is married. The left over service of the deceased was 2 years and 2 months. The family is getting a family pension of Rs. 10,930/-. The object of compassionate appointment scheme is to grant appointment on compassionate grounds to a dependent family member of a Government dying in harness or retired on medical grounds, thereby leaving his/her family in penury and without any means of livelihood and to relieve the family of government servants concerned from financial destitution and to help it to get over the emergency. The respondents have relied on the following judgments in support of their contentions:

- a) ***Eastern Coalfields Ltd. v. Anil Badyakar*** – (2009) 13 SCC 112
- b) ***Umesh Kumar Nagpal v. State of Haryana*** - (1994) 4 SCC 138
- c) ***State of Haryana v. Rani Devi*** – (1996) AIR SCW 3002
- d) ***Union of India v. Kishore*** – 2011 (2) KLT SN 49 SC
- e) ***Bhawani Prasad Sonkar v. Union of India*** – CA No. 5101/2005 dated 11.3.2011.
- f) ***State of Himachal Pradesh & Ors. v. Shashi Kumar*** – (2019) 3 SCC 653

Respondents pray for dismissing the OA.

4. Heard Shri Shafik M.A., learned counsel for the applicant and Shri S.R.K. Prathap, ACGSC learned counsel appearing for the respondents.

5. Learned counsel for the applicant has relied on OA No. 180/560/2017 dated 27.2.2019 wherein a similar issue has been dealt with. The operative portion of the order is extracted below:

“5. The short point raised by the applicant herein is whether the house property which is his ancestral property shall be taken into account while rejecting the case of the applicant by awarding '40' points. In this case there is nothing to prove that the immoveable property owned by the family of the deceased employee was capable of generating income. This Tribunal is at a loss to understand how the market value of the property owned by the family is going to improve the financial condition of the family, because a family cannot be expected to sell its landed property and to eak their livelihood out of such sale proceeds. That is not the objective of the Scheme for compassionate appointment. Therefore, this Tribunal is of the view that awarding negative/reduced marks for possessing a land which is not capable generating income or agricultural produce is absolutely against the Scheme for compassionate appointment notified by the DoP&T to be followed by the other Departments of Government in India. Hence, this Tribunal directs the respondents to treat the land owned by the family of the applicant as “No land” if it is incapable of generating agricultural or other income. In terms of the judgment passed by Apex Court, the house property should be excluded because it is not generated any income for the family.

6. In view of the above, this Tribunal is of the view that applicant's case should be reconsidered by the respondents within a period of 90 days by excluding the immoveable property inherited by the applicant herein. However, liberty is granted to the applicant to submit a detailed representation with proofs to the satisfaction of the respondents. With this observation, the Original Application is disposed of. No costs.”

This Tribunal finds that the point raised in the present case is also identical wherein the respondents have considered the property of the family of the deceased while rejecting the case of the applicant. In this case also there is nothing to prove that the immoveable property owned by the family of the deceased employee was capable of generating income. This Tribunal is at a loss to understand how the market value of the property owned by the family is going to improve the financial condition of the family, because a family cannot be expected to sell its landed property and to eak their livelihood out of such sale proceeds. That is not the objective of the scheme for compassionate appointment. Therefore, this Tribunal is of the view that awarding negative/reduced marks for possessing a land which is not capable of generating income or agricultural produce is absolutely against the scheme for compassionate appointment notified by the DoP&T to be

followed by the other Departments of Government in India. Hence, this Tribunal finds that a similar order can be passed in the present OA also as is passed in OA No. 180/560/2017. Therefore, this Tribunal directs the respondents to treat the landed property owned by the family of the applicant as “No land” if it is incapable of generating agricultural or other income. Further the Hon'ble Supreme Court in ***Balbir Kaur & Anr. v. Steel Authority of India Ltd. & Ors.*** - (2000) 6 SCC 493, held that the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. In ***Govind Prakash Varma v. Life Insurance Corporation of India & Ors.*** - (2005) 10 SCC 289 the Hon'ble Supreme Court held that compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the rules. In so far as objection of the respondents regarding grant of terminal benefits is concerned, the Hon'ble Supreme Court in ***Canara Bank & Anr. v. M. Mahesh Kumar*** - (2015) 7 SCC 412 had ruled “grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance”.

6. In view of the above, this Tribunal is of the opinion that applicant's case should be reconsidered by the respondents within a period of 90 days by excluding the factors of immovable property inherited by the applicant herein, if any as well as grant of family pension or payment of terminal benefits as held by the apex court. Ordered accordingly. However, liberty is granted to the applicant to submit a detailed representation with proofs to the satisfaction of the respondents. With this observation, the Original

Application is disposed of. No costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

“SA”

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APPLICANT'S ANNEXURES

Annexure A1 - True copy of the order No. B2/17/03/Rectt/2014 dated 27.9.2017 issued by the 3rd respondent.

Annexure A2 - True copy of the application dated 3.7.2015 submitted by the applicant for compassionate appointment made on.

Annexure A3 - True copy of letter No. B2/17/03/Rectt/2014 dated 2.2.2017 issued by the 3rd respondent.

Annexure A4 - True copy of letter No. Rectt/7-RTI/2017 dated 30.10.2017 of the CPIO with the minutes of the circle relaxation committee.

Annexure A5 - True copy of the certificates submitted by the applicant.

Annexure A6 - True copy of the letter No. 37-36/2004-SPB-I/C dated 20.1.2010 issued by the 1st respondent.

RESPONDENTS' ANNEXURES

Annexure R1 - True copy of representation dated 24.10.2016 submitted by the applicant.

Annexure R2 - True copy of OM No. 14014/02/2012-Estt(D) dated 16.1.2013.

Annexure R3 - True copy of the vacancy position for Postal Assistant/Sorting Assistant for the year 2016-2017.

Annexure R4 - True copy of the vacancy position for promotion to the cadre of Postman/Mailguard for the year 2016-2017.

Annexure R5 - True copy of the vacancy position for promotion to the cadre of MTS for the year 2016-2017.

Annexure R6 - True copy of the order dated 14.7.2011 in OA 60/2010.

Annexure R7 - True copy of the income certificate dated 6.3.2015 issued by the Tahasildar, Talappilly.