

# **ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**

T A No. 131 OF 2010  
[W.P.(C) No.12742 of 2008 of the Hon'ble High Court of Kerala, Ernakulam]

WEDNESDAY, THE 5TH DAY OF MARCH, 2013/14TH PHALGUNA, 1934

CORAM:

HON'BLE MR. JUSTICE SHRI KANT TRIPATHI, MEMBER (J)  
HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

## **APPLICANT:**

KOMALAM.N.B., W/O.LATE DINESH K.P.,  
KOLLATHUPARAMBIL, PANTHAVOOR,  
ALANGODE P.O., MALAPPURAM DIST.,  
KERALA. PIN 679585.

BY ADV. SRI. T.A. RAJAGOPALAN.

***versus***

## **RESPONDENTS:**

1. THE SECRETARY, MINISTRY OF DEFENCE,  
NEW DELHI.
2. THE OFFICER IN CHARGE, EME RECORDS,  
SECUNDERABAD, AP.
3. THE ZILLA SAINIK WELFARE OFFICER,  
ZILLA SAINIK WELFARE OFFICE,  
POOTHOL, THRISSUR – 3.

R1 TO R3 BY ADV. SRI. K.M. JAMALUDEEN, SR. PANEL COUNSEL

## **ORDER**

### **Shri Kant Tripathi, Member (J):**

1. Heard Mr.T.A. Rajagopalan for the applicant and the Senior Panel Counsel for the respondents.

2. The applicant, Komalam.N.B., widow of late Havildar, Dinesh K.P., has filed the Writ Petition (c) No.12742 of 2008 in the High Court of Kerala, Ernakulam for a direction to the respondents to consider her representation,

Ext.P6 dated 18.3.2007.

3. The relevant facts are that the applicant is a Graduate in Science with B.Ed degree. She married the deceased Havildar Dinesh K.P. on 2.12.1990. On 18.7.1993 her husband died in mysterious circumstances. According to the respondents, he committed suicide, but according to the applicant, the death was accidental or homicidal. In the present matter, we are not concerned with the cause of death of the applicant's husband, therefore, we do not deem it necessary to enter into the controversy with regard to cause of death of her husband's death.

4. In view of the fact that applicant has B.Sc., B.Ed. Degree and was qualified for a suitable post and her husband died in harness, therefore, she moved an application for compassionate appointment on a suitable post. But the request of the applicant for compassionate appointment was denied on the ground that it was not made within the statutory period of limitation of five years. Ultimately, she submitted the representation, Ext.P6, to the Hon'ble Defence Minister, Government of India, but the respondents did not take any appropriate decision on such representation.

5. Counsel for the respondents, on the other hand, submitted that on account of the delay in claiming the appointment, the applicant's case was not given due consideration by the respondents. It was next submitted that in the absence of proper application, the matter could not be considered. The Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training has issued the Memorandum

F.No.14014/3/2011 – Estt. (D) dated 26th July 2012 whereby the time limit of three years for considering the cases of compassionate appointment was taken away. Consequently, there is no time limit to claim appointment under the scheme for the compassionate appointment. In this view of the matter, the cases pertaining to compassionate appointment are required to be regulated in terms of the instructions issued vide O.M. dated 9<sup>th</sup> October, 1998. As the applicant's case was not given due consideration on the ground that the claim was barred by limitation, which has already been withdrawn by the aforesaid O.M. dated 26<sup>th</sup> July, 2012, it seems to be just and expedient to direct the respondents to give due consideration to the applicant's claim for compassionate appointment in accordance with the scheme for compassionate appointment. Accordingly, the T.A. is liable to be disposed of.

6. Counsel for the applicant submitted that, the applicant's daughter has also become eligible and therefore, the applicant would press the claim of her daughter for compassionate appointment in the place of her own claim. In our view, she may do so before the authorities.

7. The Transferred Application is disposed of with the direction to the respondents to consider the case of the applicant or her daughter, as the case may be, for compassionate appointment in terms of the Scheme for Compassionate Appointment notified by the Government of India, as amended from time to time and take a suitable decision in the matter as expeditiously as possible, preferably within six months from today. The applicant may, if

she so desires, move a fresh application as per the prescribed proforma, for her own appointment or the appointment of her daughter.

8. No costs.

9. Issue free copy of this order to both side.

Sd/-  
LT. GEN. THOMAS MATHEW,  
MEMBER (A)

Sd/-  
JUSTICE SHRI KANT TRIPATHI,  
MEMBER (J)

DK.

(True copy)

Prl. Private Secretary