

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 19736 of 2009 (J)

PETITIONER(S):

**UNNIKANNAN K.,S/O.LATE P.V.BALAKRISHNAN,
RESIDING AT KRISHNA KRIPA, PALLIKARA, POST NELESHWAR,
HOSDURG TALUK, KASARAGOD DISTRICT.**

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENT(S):

- 1. THE DEPUTY DIRECTOR GENERAL OF
METROLOGY, REGIONAL METROLOGICAL CENTRE,
50 COLLEGE ROAD, CHENNAI-600 006.**
- 2. THE DIRECTOR,
METROLOGICAL CENTRE, THIRUVANANTHAPURAM-695 033.**
- 3. THE UNION OF INDIA, REPRESENTED BY
ITS SECRETARY, DEPARTMENT OF METROLOGY
MINISTRY OF EARTH SCIENCES, NEW DELHI.**

BY SRI. N.NAGARESH, ASST. SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE COMMUNICATION DATED 24.11.1995 ISSUED BY THE
1ST RESPONDENT.

EXT.P2: TRUE COPY OF APPLICATION DTD.21.1.2008.

EXT.P3: TRUE COPY OF THE REPRESENTATION DTD.8.2.2008.

EXT.P4: TRUE COPY OF THE COMMUNICATION DTD.20.3.2008.

EXT.P5: TRUE COPY OF THE COMMUNICATION DTD.4.3.2009.

RESPONDENT(S)' EXHIBITS:

EXT.R1(a): A TRUE COPY OF THE APPLICATION DTD.28.4.1993 SUBMITTED BY THE
PETITIONER'S MOTHER REQUESTING EMPLOYMENT TO HER BROTHER.

EXT.R1(b): A TRUE COPY OF THE LETTER DATED 17.9.1993 ISSUED BY THE
DY. DIRECTOR GENERAL OF METEOROLOGY.

EXT.R1(c): A TRUE COPY OF THE APPLICATION FORWARDED BY PETITIONER'S
MOTHER TO THE FIRST RESPONDENT.

EXT.R1(d): A TRUE COPY OF THE GOVT. OF INDIA OM DATED 9.12.1993 ISSUED BY
THE DOPT AND FORWARDED BY THE MINISTRY OF SCIENCES &
TECHNOLOGY TO THE METEOROLOGY DEPARTMENT.

EXT.R1(e): A TRUE COPY OF THE LETTER DTD.1.3.1994 ISSUED BY THE
1ST RESPONDENT.

EXT.R1(f): A TRUE COPY OF THE PROFORMA APPLICATION DTD.29.7.1995
SUBMITTED BY THE PETITIONER'S SISTER.

EXT.R1(g): A TRUE COPY OF THE PROFORMA APPLICATION DATED 29.6 1995
FORWARDED BY THE PETITIONER'S SISTER.

EXT.R1(h): A TRUE COPY OF THE OFFICE MEMORANDUM ISSUED BY THE MIN. OF
PERSONNEL, PUBLIC GRIEVANCES & PENSION DTD.9.10.1998.

EXT.R1(i): A TRUE COPY OF THE LETTER DTD.24.11.1995 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER'S MOTHER.

EXT.R1(j): A TRUE COPY OF THE PROFORMA APPLICATION SUBMITTED BY THE
PETITIONER DTD.21.1.2008.

EXT.R1(k): A TRUE COPY OF THE LETTER DTD.1.9.2008 ADDRESSED TO THE
HON'BLE CHIEF MINISTER OF KERALA.

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

WP.(C).No. 19736 of 2009

Dated this the 2nd day of March, 2015

J U D G M E N T

The petitioner is the son of one P.V. Balakrishnan, who died on 1.4.1993 while working as Chowkidar in Meteorological Center, Thiruvananthapuram. The petitioner approached the 1st respondent seeking appointment under dying harness scheme. The petitioner made application for appointment by Ext.P2 and representation by Ext.P3 before the 2nd respondent. This was rejected by Exts.P4 and P5 stating that the application was belated and the family of the petitioner was not in indigent circumstances.

2. Challenging Exts.P4 and P5 orders, the petitioner has approached this Court. It is noted that widow of Sri.P.V.Balakrishnan was a school teacher and at the time of receiving the first application dated 21.1.2008, she was receiving a pension of Rs.7,988/-.

3. The compassionate appointment cannot be denied stating the reason that the widow of Sri.P.V.Balakrishant is receiving pension. The legal heir of

any person, who died while in service is entitled for pension. The question is whether delay can be reason for declining of compassionate appointment to the petitioner. In this respect it is appropriate to refer Office Memorandum issued by the Government of India Ministry of Personnel Public Grievances and Pensions dated 16.1.2013. It is stated in Paragraph 8 of the Office Memorandum as follows:

“Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M.No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.”

4. The above Office Memorandum would make it clear that no application under compassionate scheme can be declined for the reason that it was made out of time. The Office Memorandum further states that subject to availability of a vacancy and instructions on the subject issued by the

Department, any application for compassionate appointment is to be considered without any time limit and decision be taken based on merit of each case.

5. In view of the above, impugned orders are set aside. There shall be a direction to the 1st respondent to consider and pass appropriate orders on the application made by the petitioner for compassionate appointment based on Office Memorandum issued by the Government of India Ministry of Personnel Public Grievances and Pensions dated 16.1.2013. Needful shall be done within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/