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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO .3254/2002

NEW DELHI 15TH DAY OF SEPTEMBER 2003

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Kumari Manisha D/o late Sh. Karnail Singh,
R/o F-1182, Netaji Nagar,
New Delhi - 110023

.....Applicant.

(By *Sh. D. R. Gupta, Advocate*)

VERSUS

1. Union of India through Secretary,
Ministry of Urban Affairs And P.A.
Nirman Bhawan, New Delhi
2. Director of Printing,
Ministry of Urban Affairs and P.A.
Nirman Bhawan, new Delhi
3. The Manager,
Government of India Press,
Minto Road,
New Delhi - 110002

(By Shri Rajeev Bansal, Advocate)

O R D E R (ORAI)

Rejection of request for compassionate appointment vide order 8.8.2002 is assailed.

2. Father of the applicant working as Compositor died in harness on 10.4.2001 leaving behind widow, one daughter and two sons, none of them employed. Applicant belongs to OBC.

3. As terminal benefits the family received an amount of Rs. 1,74,440/- and in receipt of family pension of Rs.2200/- plus DA. Case of the applicant for compassionate appointment though was considered but rejected on the ground that terminal benefits accorded and family pension brings the family of the applicant above the poverty line of income of Rs. 1767-20 for a family of five members. It was also rejected on the ground that under 5% quota the waiting period is only for one year that too for deserving cases. Learned counsel for applicant Shri D R Gupta, relying upon the case of Krishna Devi Vs UOI decided on 12.2.2002 contends that having regard to the decision in Balbir Kumar Vs Steel Authority of India (2000 vol 6 SCC 493) ; terminal benefits cannot be the sole criteria for consideration of compassionate appointment.

4. Referring to DoPT OM dated 5.5.2003 wherein the time limit for compassionate appointment previously laid down had been superseded with consideration for further one year i.e. upto three years subject to certain conditions, accordingly a fresh consideration has been sought.

5. On the other hand learned counsel of the respondents Shri Rajeev Bansal strongly opposed the OA and states that keeping in view various factors and considerations the case of the applicant was not found deserving ; as such was not recommended for compassionate appointment. Referring to the Planning Commission figure of Rs. 1767/20 as the income level below which a family of five members can be considered to be below poverty line. it is stated that terminal benefits accorded as well as family pension brings the applicant above the poverty line.

6. Lastly it is contended that keeping in view the right is only for consideration, the present OA is liable to be dismissed.

7. I have carefully considered the rival contentions and perused the material on record. Though the case of the applicant was considered but the same was rejected both on the ground that the case falls beyond the poverty line and cannot be considered beyond one year which is stipulated prescribed waiting period.

8. Further I find that the aforesaid time limit had been superseded by DoPT Memo. dated 5.5.2003 which is the modification of OM dated 3.12.99 and is an addendum. The same *would relate back to* ^{to} the date of OM. As such it is incumbent as per the procedure laid down for the respondents to consider the deserving cases for compassionate appointment even beyond one year subject to ceiling of 5% of direct recruitment quota.

9. As I find that the applicant's father died leaving behind a family of 4 members; none of them is working; mere accord of terminal benefits cannot be sole criteria to judge the suitability for compassionate appointment. It is one of the factors keeping in view the size of the family, the amount accorded and indigent conditions, the case in my considered view is a deserving one which require reconsideration in the light of DoPT instructions *ibid.*

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10. OA is accordingly disposed of with the directions to respondents to consider the applicant for compassionate appointment in the light of OM dated 5.5.2003 and to be disposed of by a detailed and speaking order within a period of 3 months from the date of receipt of this order No cost.

S. Raju
(Shanker Raju)
Member (I)

Patwal/