

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3212/2002

New Delhi this the 25th day of September, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Sh. Rajesh Kumar Tewari,
S/o late Sh. S.P. Tewari,
R/o H.No.F-2988, Netaji Nagar,
New Delhi-110023.
2. Smt. Chameli Devi Tewari,
W/o late Sh. S.P. Tewari,
R/o H.No. F-2988, Netaji Nagar,
New Delhi.

-Applicants

(By Advocate Shri R.N. Singh)

-Versus-

1. Union of India,
Ministry of Defence,
South Block,
New Delhi-110011
through the Secretary.
2. The Joint Secretary,
Chief Administrative officer,
Ministry of Defence,
C-II, Hutmants, Dalhousie Road,
New Delhi-110011.
3. The Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi-110011.

-Respondents

(By Advocate Sh. Vimal Rathi, proxy for Ms. P.K. Gupta)

ORDER (ORAL)

Rejection of request of applicant No.1 for compassionate appointment through orders dated 3.1.2000 as well as 10.4.2001 are assailed. Quashment of the above orders has been sought with direction to consider claim of applicant No.1 for compassionate appointment.

2. Father of applicant died on 12.8.1999 after a long lapse. Family consists of widow and applicant No.1 the only son, his wife and daughter. As terminal benefits an amount of Rs.6.4 lakhs was accorded to family and the widow is getting a pension of Rs.3800/- per month. The

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liability of family, i.e., marriage of the children has already been discharged.

3. Case of first applicant was considered on an application by the respondents for compassionate appointment. The Committee in accordance with the instructions of DoPT issued in 1998 rejected the claim of applicant on 3.1.2000 by holding that the financial condition of applicant is not pitiable and the family not being indigent compassionate appointment has been ruled out. On further representation through various corners, including political leaders and Ministers. The matter stood re-considered and was rejected on 10.4.2001, giving rise to the present OA.

4. Learned counsel for applicants Sh. R.N. Singh contends that the financial benefits cannot be the sole criteria for consideration. It is stated that the reconsideration has been undertaken by the respondents but not actively considered in an objective manner and as the reasons are not recorded the order is vitiated, requiring reconsideration. Relying upon the decision of the Single Bench of Allahabad High Court in Smt. Kanti Srivastava v. State Bank of India, 2003 (3) SCT 833 it is stated that the rejection on the ground that the family is not indigent on the basis of funds received cannot be a substitute for employment to be offered to keep the family pot boiling. In this view of the matter it is stated that the money received has already spent on the medical treatment of the deceased and as the son of applicant No.2 though is aged

30 years has made an application at the time when he was 26 years old in the present days of unemployment can be accorded age relaxation as per the Scheme.

5. In a nut shell what has been contended is that the case has not been considered strictly in accordance with the Scheme which has an object to redress the family from the financial crises. The action of the respondents is stated to be arbitrary and in violation of the law laid down by the Apex Court in *Balbir Kaur v. Steel Authority of India*, AIR 2000 SC 1956.

6. On the other hand, respondents' counsel produced the relevant record, whereby claim of applicant was considered and vehemently opposed the OA. According to respondents as applicants' family was not found indigent the object of the Scheme has not been meted out. Applicants' family whose earning member died at the age of 56 years received terminal benefits and the family pension without any liability cannot be treated as indigent as compared to other cases. Accordingly, on consideration the claim has been rejected.

7. It is also stated that on re-consideration as well the stand taken earlier has been re-iterated with no change of circumstances. As the Scheme has an object to provide help to indigent families left in penury without any means of livelihood and to get over emergent situation, applicants who is 30 years old and educated cannot be a

dependant family member to deserve compassionate appointment. It is also stated that the case of applicant was considered at the level of Defence Minister who confirmed the decision of the competent authority. As the compassionate appointment cannot be claimed as a matter of right case of applicant No.1 being considered meticulously in accordance with the Scheme cannot be interfered with at this stage.

8. In the rejoinder, applicant has re-iterated his pleas.

9. I have carefully considered the rival contentions of the parties and perused the material on record. One thing which is clear from the settled position of law is that in compassionate appointment only right is for consideration. It cannot be claimed as an alternate mode of entry into Government service. The consideration is in accordance with the Scheme of DoP&T dated 10.9.1998. Although terminal benefits cannot be the sole criteria but are the relevant consideration keeping in view the liabilities, assets and other factors involved. The Apex Court in plethora of decisions held that the Tribunal shall not act on compassion to accord compassionate appointment. Only a direction for consideration can be issued in deserving cases. Keeping in view the family of applicants and the fact that they have no liability of marrying the daughter etc. the amount accorded as terminal benefits and the family pension accorded, cannot, by no stretch of imagination can bring the family under the ambit of

indigent family.

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10. Moreover the deceased died at the age of 56 years and by that time applicant No.1 was 26 years of age. The application was made and on rejection now applicant No.1 who has attained the age of 30 years cannot claim compassionate appointment as an indirect entry in Government service when earlier he has failed to get the same.

11. On re-consideration also the earlier orders have been re-iterated. When the orders are passed dealing with the request on compassionate basis, it is not necessary to record reasons but if the reasons are there on the file would suffice. Moreover the case of applicant was considered at length earlier and on intervention of the various authorities the matter has gone upto the level of Defence Minister and the decision of Screening Committee has been re-iterated and confirmed. Applicant having no right to be appointed having been considered in accordance with the Scheme cannot claim an indefeasible right.

12. The aforesaid contention is fortified by the decisions of the Apex Court in *Sanjay Kumar v. State of Bihar*, (2000) 7 SCC 192 as well as *Director of Education v. Pushpender Kumar*, 1998 (5) SCC 192. As the government servant died four years earlier in 1999 and the family has managed to survive shows that it is not in emergent need of financial assistance and also an indigent family. As the object of the Scheme is to redress the family and tide over

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the financial crises no more exists, I do not find any infirmity in the orders passed by the respondents. Accordingly, the OA is found bereft of merit and is dismissed. No costs.

Shankar Raju

(Shanker Raju)
Member (J)

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