

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2124/2002

This the 14th day of July, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1. Smt. Urmila Devi, widow of late Shri Bhagwati Prasad, formerly Group 'D' employee, Government of India Press, Aligarh (UP) R/O House No.35, Ward No.9, Ghuria Bagh, Aligarh (UP).
2. Ravindra Kumar S/O Late Bhagwati Prasad, House No.35, Ward No.9, Ghuria Bagh, Aligarh (UP). ... Applicants

(By Shri D.N.Sharma, Advocate)

-versus-

1. Union of India through Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi.
2. Director of Printers, Government of India, 'B' Wing, Nirman Bhawan, New Delhi.
3. Manager, Govt. of India Press, Northern Railway, Aligarh (UP). ... Respondents

(By Shri R.P.Agarwal, Advocate)

— ORDER (ORAL) —

Late Shri Bhagwati Prasad was appointed as Waterman in Government of India Press, Aligarh on 7.10.1963. He died on 16.4.1998 while in service. The family of the deceased has his widow Smt. Urmila Devi (applicant No.1), four sons and one daughter. The family has received a sum of Rs.2,20,870/- as terminal benefits and is in receipt of family pension of Rs.1,738/- plus 49% dearness relief on pension. Vide Annexure-1 dated 17.6.2002 request of the widow of the deceased asking for

- 2 -

employment of applicant No.2 Shri Ravindra Kumar on compassionate grounds has been rejected stating that the case was not found fit for compassionate appointment as "late Sh. Bhagwati Prasad completed 35-1/2 years of service and his family getting Rs.1,738/- (+) D.R. 49% as Family Pension which is more than the Planning Commission's yard-stick of five family members with income of Rs.1767/- below poverty line; whereas, there are three dependents. In addition to it his family got terminal benefits of Rs.2,20,870/- and the family has immovable property ~~has~~ a three storeyed house; the elder brother is in service of Central Government under Central Water Commission."

2. The learned counsel of applicants stated that Annexure A-5 dated 12.7.2001 which is the scheme for appointment on compassionate grounds lays down the guiding yardstick to identify deserving cases as follows:

"(c) Guiding yardstick to identify deserving cases :: DOP&T have given a yard-stick of poverty line to be applied to determine the financial destitution/penurious condition of the family to decide whether or not a case is really deserving one. It has been brought out that according to the Planning Commission, the poverty line amounts to income below Rs.1767.20 (353.44x5) for a family of 5 members per month. Hence, if the yard-stick of poverty line is applied, the number of really deserving ones would surely be within the ceiling of prescribed 5% quota. Henceforth thus criterion should be applied to judge the penurious condition/financial destitution of the family of the concerned government servant for considering the requests from the dependents for compassionate appointment. In view of the above, the system of maintenance of waiting list be dispensed with since this is causing lot of problems and therefore no cases are henceforth to be waitlisted."



The learned counsel stated that whereas the deceased Government employee has left a family of five, it is getting a family pension of Rs.1,738/- only which is less than the poverty line as per the Government yardstick. In this view of the matter, the learned counsel stated that respondents should not have rejected applicants' prayer and applicant No.2 should have been provided employment on compassionate grounds. ~

3. On the other hand, the learned counsel of respondents stated that the deceased has four sons aged 38, 36, 28 and 24 years. While the eldest son Shri Om Prakash is employed in the Central Water Commission, New Delhi, two sons are self-employed as barbers. Applicant No.2 does casual work and earns around Rs.600/-. The family has immovable property also. The learned counsel stated that the family not only gets a family pension of Rs.1,738/- but also 49% dearness relief on pension as well. If that is added to the basic family pension, the family pension exceeds Rs.2,500/- which does not fall within the poverty line amount in terms of Annexure A-5. ~

4. The learned counsel has relied on order dated 7.5.2003 in OA No.2706/2001-: *Himmat Singh v. Union of India* (CAT, Principal Bench), wherein it was observed as follows :

.....The scheme of DOPT of 1998 is applicable where the consideration for compassionate appointment by the Committee is dependent upon several factors, interalia, one of its payment of retiral benefits. Accordingly, the respondents reconsidered the request of applicant and keeping in view the assets and liabilities and that one of the family member was in employment and the amount

11

13

of family pension, the family has not been found to be indigent, which is the pre-requisite and a condition precedent for accord of compassionate appointment. As the compassionate appointment cannot be claimed as a right having evaluated meticulously, case of applicant has not been found really deserving, I do not find any infirmity in the order passed by the respondents."

The learned counsel also relied on **Life Insurance Corporation of India v. Mrs. Asha Ramchandra Ambekar & Anr.**, JT 1994 (2) SC 183 wherein it was held that compassionate appointment cannot be claimed as a right and the Courts ought not confer benediction impelled by sympathetic considerations.

5. The learned counsel stated that respondents have considered all aspects of the matter and found that basically only two persons, i.e., the widow and the daughter were dependent on the deceased employee, the remaining being self-reliant. No satisfactory explanation was provided on behalf of applicants how to treat members other than the widow and the daughter as dependents on the deceased Government employee. The death of the Government servant had taken place on 16.4.1998. More than four years have elapsed since then. Apart from the retiral benefits, the family pension is more than Rs.2,500/- per month. All these factors indicate that the family is not in indigent circumstances.

6. The ratios in **Himmat Singh** (supra) and **Life Insurance Corporation** (supra) are squarely applicable to the facts and circumstances of the present case. The

13

concerned family does not fall within the yardstick prescribed by the Government which has been described above. Respondents have considered various factors and reached the conclusion that the family does not suffer from indigent circumstances. . .

7. In my considered view, the case of applicant No.2 for employment on compassionate ground has been duly considered and the family having not been found in indigent circumstances or in dire need of financial assistance, the request for compassionate appointment has been rejected, which does not suffer from any legal infirmity. Accordingly, the OA is dismissed being found without merit. No costs. . .

V. K. Majotra

(V. K. Majotra)
Member (A)

/as/