

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.387/2001  
MA No.355/2001

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New Delhi this the 5th day of October, 2001.

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

1. Smt. Phoolwati Deyi Wd/o Late Sh. Ramdas
2. Surender Kumar S/o late Sh. Ramdas,  
Malveeya Nagar, New Delhi. -Applicants

(By Advocate Shri U. Srivastava)

-Versus-

Union of India through:

1. The Secretary,  
Ministry of Science & Technology,  
Deptt. of Science & Technology,  
Govt. of India, New Delhi.
2. The Director General of Metrology,  
Indian Metrological Department,  
Mausam Bhavan, Lodhi Road,  
New Delhi. -Respondents

(By Advocate Shri Rajeev Sharma, proxy for Sh. J.B. Mudgil)

ORDER (ORAL)

Heard the learned counsel for the parties. This OA has been filed by the applicants seeking compassionate appointment on account of the death of the Government servant. The claim of the applicant No.2 was considered in 1993 and was rejected in 1994. He has approached this Tribunal in 2000, by way of challenging the orders passed by the respondents, reconsidering the matter and rejecting the same on 20.7.2000. The contention of the learned counsel for the applicants is that once the respondents have reconsidered the representation of the applicants for compassionate appointment it give them a fresh cause of action to assail the same and the limitation would not be applicable in such cases. The learned counsel for the applicants has placed reliance on a decision in B. Kumar v. Union of India, 1988 (7) SLR 462. It is also stated that the respondents have not assigned any

reasons rejecting the request of the applicants for compassionate appointment for her third son Surender Kumar. The applicants further contended that their family is indigent and the members who are earning are not supporting the family and have been living separately. In this backdrop it is stated that the applicants are entitled for accord of compassionate appointment. 10

2. On the other hand, strongly rebutting the contentions of the applicants, the learned proxy counsel for the respondents stated that though the case of the applicants has been closed in 1994 but yet on his persisted requests through politicians and from other sources they were compelled to communicate to the applicants the rejection and have reiterated the decision which has already been taken in 1994. It is also stated that as per the Scheme for compassionate appointment issued on 9.10.98 the compassionate appointment cannot be claimed as a matter of right. It is to be accorded only in those case where the family is indigent and is in dire need of financial assistance. It is also stated that the compassionate appointment cannot be claimed as an alternate mode to Government service without being subjected to the prescribed criteria. In this view of the matter the learned counsel for the respondents has placed reliance on the decision of the Apex Court in Umesh Kumar Nagpal v. State of Haryana, JT 1994 (3) SC 525 as well as the decision in State of Haryana v. Rani Devi, JT 1996 (6) SC 646. It is also stated that the applicants have been accorded sufficient financial assistance and are getting the family pension. Apart from this, three sons of the first applicant have been gainfully employed in Government and other firms and this shows that the family is not at

all in need of financial assistance. It is also stated that if the family has managed to live for all these years this clearly shows that the same was not indigent.

3. Having regard to the rival contentions of the parties the claim of the applicants is not sustainable. Compassionate appointment cannot be claimed as a matter of right. The right is only for consideration. Having considered the case of the applicants in 1993 the respondents have rejected the same. Again on persisted efforts of the applicants through politicians the respondents were compelled to issue an order in 2000<sup>kl</sup> which is nothing but reiteration of their previous decision taken in 1994. This order shall not give a fresh cause of action to the applicants to assail their grievance for compassionate appointment. The ratio cited by the learned counsel for the applicant would have no application in the facts and circumstances of the present case as therein on making a representation an order has been passed which has enhanced the period of limitation as per the provisions of Section 21 of the Administrative Tribunal Act, 1985.

D. However, the claim of the applicants is not being dismissed on limitation but on merits too it has no legs to stand. In view of the decision of the Apex Court in the case of Umesh Nagpal (supra), and the fact that the applicants have been accorded sufficient and adequate financial assistance on demise of the deceased Government servant and they managed to live for about 8 years thereafter would clearly demonstrate that the family was neither indigent nor in dire need of financial assistance. In this view of the matter, having found no merit in the OA the same is dismissed at the admission stage itself. No costs.

S. Raju

(Shanker Raju)  
Member (J)