

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1385 of 1999

New Delhi, this the 9th day of July, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Surjeet Kumar
W/o Late Shri Shiv Charan Singh Tomar
Ex.Vehicle Mechanic. T.No. 2538,
510-Army Base Workshop
Meerut Cantt.
R/o 158/3-B, Ram Nagar,
Kankar Khera
Meerut Cantt.

...Applicant

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(By Advocate: Shri G.D. Bhandari)

Versus

Union of India through

1. Secretary,
Ministry of Defence/South Block,
New Delhi.
2. DG EME (EME CW-2),
Army HQ DHQ,
P.O. New Delhi-110 011.
3. Commandant, 510 Army
Base Workshop/Post
Box-30, Meerut Cantt. ...Respondents

(By Advocate: Sh.V.S.R. Krishna)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This is an application filed under Section 19 of the Administrative Tribunal's Act, 1985 by the applicant who is seeking compassionate appointment for himself.

2. Facts in brief are that the applicant is the son of Late Shri Shiv Charan Singh Tomar died in harness on 3.12.90 while serving under the respondents. After the death of Shri Shiv Charan Singh Tomar, applicant made an application to the respondents seeking an appointment

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on compassionate grounds. The said application had been rejected vide order Annexure A-1. The applicant in this OA prays for quashing of the said letter dated 4.12.98 and to direct the respondents to appoint the applicant on compassionate grounds in a suitable Group 'C' post.

3. The grounds taken up by the applicant is that this impugned order vide which the application of the applicant had been rejected has been passed without assigning any valid and cogent reason and it is a non-speaking order which is illegal, unjust, arbitrary and without any reason.

4. The applicant further submits that the entire family is living in most indigent circumstances as they have no other source of income and while considering the appointment on compassionate grounds it has to be seen the scheme introduced by the Government is to provide succour to the families whose bread earner dies in harness as it has been held by the Hon'ble Supreme Court.

5. The applicant has further submitted that as the family is receiving only Rs.587/- as pension as such it cannot be said that the family is not in indigent circumstances and relying on the judgment in the case entitled as Babli Kaur and Another Vs. Steel Authority of India Ltd. and Another, 2000(4) SCALE 670 the applicant has prayed that the OA be allowed.

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6. The OA is being opposed by the respondents. It is also stated that for compassionate appointment the department has to see what terminal benefits has been received by the family so it cannot be said that the family is in indigent circumstances, as such the OA be dismissed.

7. The respondents have also submitted that the case of the applicant was considered along with other persons for compassionate appointment by the competent authority but as his case does not satisfy the criteria laid down in the scheme, therefore, his case was rejected for compassionate appointment.

8. I have heard the learned counsel for the parties and gone through the records of the case.

9. From a perusal of the impugned order I find that while rejecting the claim of the applicant for considering his case for appointment on compassionate grounds, the Appointment Committee had also taken into account the amount of terminal benefits received under the various schemes as well as the amount of pension. Though they also claim that they have also considered other aspects like size of the family, earning members supporting the family etc., but there is no one who can support the applicant. Though in the counter-affidavit the amount received by the family of the deceased employee has not been mentioned. The Hon'ble Supreme



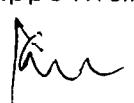


Court in the case reported in referred to a judgement reported in 2000 (4) Scale 670, Balbir Kaur & anr. vs. Steel Authority of India Ltd. & ors., relevant portion of which reads as under:

"Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family. This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events."

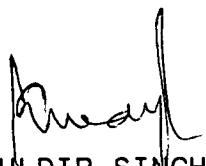
10. It appears from the pleadings available on record that the respondents, while considering the case of applicant for compassionate appointment, had taken into consideration the terminal benefits given to the son of the deceased employee. However, as per the observations of the Hon'ble Supreme Court in the case of Balbir Kaur (supra), quoted above, the retiral benefits given to the family members of the deceased employee could not be equated with the benefit of compassionate appointment as the same had been given to them to comply with the mandate of statute, after the early death of the employee.

11. Under these circumstances, I am of the opinion that the impugned order rejecting the prayer of the applicant for appointment on compassionate grounds cannot be sustained as the respondents while considering the case of applicant for compassionate appointment, had



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taken into consideration the terminal benefits given to the family members of the deceased employee. The impugned order is, therefore, quashed and the O.A. is allowed to the extent that respondents shall consider the case of applicant for compassionate appointment within a period of three months from the date of receipt of a copy of this order, as per the instructions on the subject and in accordance with the observations of the Hon'ble Supreme Court in the case of Balbir Kaur vs. SAIL (supra). No costs.


(KULDIP SINGH)
MEMBER(JUDL)

Rakesh