

Central Administrative Tribunal
Principal Bench

O.A. 1652/1999

New Delhi this the 9 th day of October, 2000

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Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Sudershan,
S/o late Shri Suresh Chand,
R/o 91-A, Ward No. 2,
Mehrauli, New Delhi-110030.

Applicant.

(By Advocate Shri Rohit Sharma)

Versus

1. The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. The Director General,
CPWD Nirman Bhawan,
New Delhi.

3. The Executive Engineer,
Air Condition Department No.4,
Vidyut Bhawan, Shanker Market,
New Delhi-110001.

Respondents.

(By Advocate Shri Yash Pal Singh proxy for Shri A.K.
Bhardwaj)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is praying for an order to the respondents to consider his case for appointment on compassionate grounds against any suitable Group 'D' post immediately.

2. The applicant is the son of late Shri Suresh Chand, who was working as LDC/Cashier with the respondents. He states that he belongs to the SC category. His father died on 26.1.1982 (Annexure P-II).

3. In the O.A. the applicant has alleged that his mother, after the death of his father, had abandoned him and

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his sister, married her paramour and started living at Rohtak. Shri Rohit Sharma, learned counsel for the applicant, submits that the applicant and his sister were living with their grand mother since 1989, who is a Class-IV employee in the Maternity Home Corporation Centre, New Delhi. He has submitted that looking into the financial stress undergone by the applicant and his younger sister for the last several years since their father died on 26.1.1982, and also the fact that they have not been cared ^{for} by their own mother, the case may be looked at sympathetically so as to give a direction to the respondents to consider appointment of the applicant on compassionate grounds. He has also submitted that in the letter issued by the respondents dated 27.3.1999 to the notice issued to them by the applicant, they have submitted that the matter cannot be taken after a gap of 17 years as there is no justification. Learned counsel for the applicant has submitted that at the time of death of the father, the applicant was about one and a half years old and his younger sister was born after his father's death. Hence, he has submitted that there is no delay, as the applicant was very young at that time and could not possibly have been employed. He has relied on the judgement of the Punjab and Haryana High Court in **Jagdeep Kumar Vs. State of Haryana** (1996(3) SLR 365). In that case, the petitioner had applied for appointment after a lapse of 7 years of the death of his father. The High Court has observed that he could only apply for a job on attaining majority and, therefore, the stand taken by the respondents does not stand the scrutiny of being reasonable. Another case relied upon by the learned

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counsel for the applicant is the judgement of the Guwahati High Court in **Khrajam Jasobanta Singh Vs. State of Manipur & Ors.** (1995 LAB IC 462). In this case also, the applicant, who was aged about 9 years at the time of death of his father had applied for compassionate appointment on attaining his majority. The High Court has held that limitation of one year runs from the date he attained majority and not from the date of death of the Government servant.

4. The respondents have not filed any reply. However, Shri A.K. Bhardwaj, learned counsel has been heard on their behalf. He has submitted that under the settled principles of law for appointment on compassionate grounds, the case is hopelessly barred by limitation as the applicant is seeking the same after 17 years of the death of the father in 1982. He has also submitted that the school certificate attached to the O.A. shows that the applicant had studied in a school in Karnal, whereas he has stated that he has been staying with his grand-mother in New Delhi. However, Shri Rohit Sharma, learned counsel has submitted that the applicant studied in that school till 1998 while under his grand-mother's care. He has, therefore, prayed that the O.A. may be dismissed.

5. No doubt, the underlining principle for appointment on compassionate ground is that the family, which is left indigenuous on the death of the bread winner in harness, should be given some financial support by giving appointment in deserving cases to the ward or dependent of the deceased Government employee in accordance with the relevant rules and instructions. In the present

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case, it is a fact that there is a gap of 17 years before the applicant has sought consideration for appointment on compassionate grounds after the death of his father in January, 1982. However, it is relevant to note that at the time of his father's death, the applicant was about one and a half years old and he has represented to the respondents in the notice dated 12.3.1999 to consider him for appointment on compassionate grounds after he has attained majority. The main ground taken by the respondents in the rejection letter dated 27.3.1999 is that the applicant has taken up the case after a gap of 17 years for which there is no justification. However, taking into account the judgements of the High Court of Punjab and Haryana in **Jagdeep Kumar's case** and Guwahati High Court in **Khraijam Jacobanta Singh's case** (supra), as the applicant has applied for appointment on compassionate grounds soon after attaining the age of majority, this ground taken by the respondents is not justified for outright rejection of the applicant's request. The applicant has also stated that soon after the death of his father, his mother has married another person leaving him and his sister in the care of the grand-mother. The rejection of the applicant's request merely on the ground that there has been a gap of 17 years since his father's death appears, therefore, to be mechanical. It is also settled law that the facts of each case has to be considered on merits in accordance with law.

5. In the facts and circumstances of the case, the O.A. is allowed with a direction to the respondents to consider the case of the applicant for appointment on compassionate grounds in accordance with the relevant rules and instructions. This shall be done within two months

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from the date of receipt of a copy of this order. The applicant, if found eligible for appointment on compassionate grounds shall be appointed on his own turn, subject to other prior claims, in accordance with the rules and instructions. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'