

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1234/98

New Delhi, this the 19th day of February, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)

Mrs. Yoginderi w/o Sh. S.N. Singh,
R/o Qr. No. 759, Sector VIII, RK Puram,
New Delhi.Applicant

(By Advocate: Shri B.B. Raval)

versus

Union of India through

1. The Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi.
2. The Director,
Director of Estates,
Nirman Bhawan,
New Delhi.
3. Smt. Jaya Dubey,
Section Officer,
Central Water Commission,
Room No. 308, Sewa Bhawan,
Rama Krishna Puram,
New Delhi.
4. Shri N.K. Gupta,
Section Officer,
Ministry of Water Resources,
Shram Shakti Bhawan,
Rafi Marg.

....Respondents

(By Advocate: Mrs. P.K. Gupta - not present)

ORDER

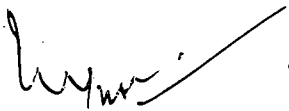
Hon'ble Shri T.N. Bhat, Member (J)

We have heard the learned counsel for the applicant at some length. None appeared for the respondents to make submissions. None appeared on the previous two dates either. We have also perused the material on record.

Signature
19.2.99.

2. The applicant who is the daughter of a deceased employee of the respondents was given compassionate appointment on provisional basis when she applied for the same on the death of her deceased father while still in service. In the form that was filled up by her the particulars of the dependents of the deceased employee were shown to be only her mother and one brother, namely, Prem Prakash apart from the applicant herself. Later, however, the respondents sought to disallow the applicant from joining her duty despite the offer of compassionate appointment by the order dated 3.6.1996. The applicant filed OA No. 2434 of 1996 assailing the action of the respondents in not allowing her to join duty. The aforesaid OA came to be disposed of by the order dated 16.5.1997 directing the respondents to allow the applicant to join and also for reconsidering/reviewing the matter. Liberty was granted to the competent authority to consider any fresh facts that might come to their notice and to arrive at a finding regarding the financial condition of the family and if upon such consideration the competent authority comes to the conclusion that the earning sons of the deceased employee have a legal obligation to maintain the mother and that the overall financial situation of the family is not precarious to review the order of compassionate appointment and, if necessary, to rescind the same.

3. In pursuance to the aforesaid direction of the Tribunal the Secretary, Ministry of Water Resources reviewed the applicant's case and upon consideration of the relevant facts came to the conclusion that applicant does not deserve to be appointed as L.D.C. on compassionate ground. By the



(3)

impugned order dated 3.6.1998 the provisional appointment of the applicant as LDC was accordingly terminated with immediate effect.

4. Aggrieved by the aforesaid order dated 3.6.1998 the applicant has filed this O.A. The main grounds agitated are: that after having been offered appointment on compassionate ground the services of the applicant could not have been validly terminated; that the respondents had erred in taking into account the fact that three other brothers of the applicant were already having independent sources of income, as those brothers were living separately and were not maintaining the widow of the deceased employee nor the other dependent members of the family; that the respondents had not carried out the direction of the Tribunal given in its order dated 16.5.1997 passed in OA 2434/96 in letter and spirit but had passed the impugned order on extraneous considerations; that the applicant had been given to understand that respondent no.4, who has been impleaded by name, was the only person who could help the applicant and she was advised to meet him when the applicant did not go to so, the impugned order was passed; that the applicant is fully qualified for the job which was offered to her and is also entitled to regularisation; that the Secretary, Ministry of Water Resources seems to have been completely misled and the impugned order passed by him is not legally correct; that the fact that the applicant's husband is also serving as a Govt. employee cannot disentitle her to continue on the job offered to her on compassionate grounds and; lastly, that at the time the compassionate appointment was offered to the applicant she was still unmarried and the subsequent marriage cannot debar her from claiming

compassionate appointment.





5. The respondents have contested the OA by filing a detailed counter in which it is averred that the applicant had mentioned wrong facts in her application seeking compassionate appointment and that on an independent enquiry being held it was found that the family of the deceased was not in indigent circumstances as three of the four sons left behind the deceased were having their own sources of livelihood. It is further averred that the widow of the deceased is receiving a substantial amount as family pension which is likely to be increased after the implementation of the recommendations of 5th Central Pay Commission. About the applicant, it is stated that she is already married and her husband is also a Govt. employee.

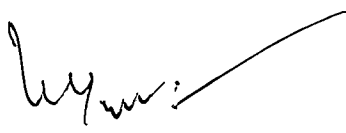
6. During the course of his arguments, the learned counsel for the applicant sought to draw support from some observations made by the Tribunal in its order dated 16.5.1997 on OA 2434/96. The Learned counsel points out that the Tribunal had in that order held that the respondents were not justified in refusing to allow the applicant to join the post offered to her on compassionate grounds and argues that the same observations would hold good even now when the order of appointment of the applicant on compassionate ground has been rescinded.

7. We have carefully gone through the lucid and detailed judgement of our learned brother Hon'ble Shri N.Sahu, Member (A) in the aforesaid O.A. and find that even according to the learned Member the respondents would be within their rights to consider all the relevant facts and then to come to the conclusion whether the applicant deserved to be given

(5)

compassionate appointment or not. In the aforesaid judgement some observations of the Apex Court in Umesh Kumar Nagpal vs. State of Haryana were quoted and on the strength of those observations it was held that the compassionate appointment can be claimed only when the financial condition of the family is so distressing that if some member of the family is not given an appointment the entire family would be rendered destitute. It is well-settled that compassionate appointment is not granted for the purpose of substituting the deceased employee with a member of the family. Such compassionate appointments are offered only with a view to provide immediate relief and succour to the family if it is found that the family is at the verge of starvation and is in indigent circumstances. In the instant case it is not disputed that a substantial amount is being received by the widow of the deceased by way of family pension and three sons of the deceased are already having independent sources of income. It has also been found by the Secretary, Ministry of Water Resources that the deceased owned a plot of land in Faridabad the value of which is more than a lac of rupees, though, it is averred by the applicant that the aforesaid plot of land had been sold away during the life time of the deceased employee, namely, Shri Tej Ram to pay off the house building advance secured by him.

8. It is also not disputed that an amount of more than Rs. 3,00,000/- was received by the applicant's mother who is the widow of the deceased by way of gratuity, insurance, G.P. fund etc. though the applicant would contend that the aforesaid amount was used by the widow in repaying the loans taken during the life time of the deceased for his treatment and the remaining amount was spent on the marriage of the applicant. But the fact remains that the said amount was

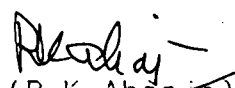


(16)

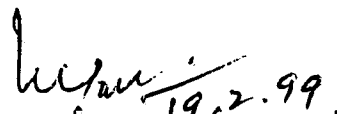
received by the family as gratuity and other dues. The mother of the applicant^y also admittedly receiving Rs. 900/- (now revised to more than Rs. 3000/-) per month as pension which may be reduced to 1/2 after the year 2003.

9. An appointment on compassionate ground is in deviation from the normal process of public employment which is to be made after proper notification allowing eligible candidates to compete and then selection is to be made only on merit. Therefore, compassionate appointment is required to be made strictly in accordance with the rules. As already mentioned, the most important condition is that the appointing authority must be satisfied that the family has no source of income and is placed in indigent circumstances. In the instant case the family of the deceased consists of the widow and one grown up son, the applicant having already been married and the other three sons having independent sources of income. The family has managed to survive for so many years and the widow is also getting a good amount as pension. The son never applied for compassionate appointment and it is not the case of the applicant that he is not able bodied or that he has no source of income whatsoever. In these circumstances we are of the considered view that the applicant or any other member of the family would not be entitled to appointment on compassionate grounds.

10. In view of the above we find no grounds to interfere with the impugned order passed by the Secretary, Ministry of Water Resources. We accordingly dismiss this O.A., but without any order as to costs.


(R.K. Ahooja)
Member (A)

:naresh:


19.2.99.
(T.N. Bhat)
Member (J)