

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 921 of 1998 decided on 3.6.1999

Name of Applicant : Smt. Rozy

By Advocate : Shri A.K. Bhardwaj

Versus

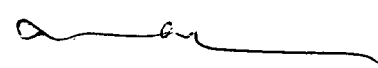
Name of respondent/s Union of India & others

By Advocate : Shri N.S. Mehta

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes
2. Whether to be circulated to the other Benches of the Tribunal. - No


(N. Sahu)
Member (Admnv)

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.921 of 1998

New Delhi, this the 3rd day of June, 1999

Hon'ble Mr. N. Sahu, Member(Admnv)

Smt. Rozy Widow of Late Shri Ram Lal,
C-2 Flat, Kothi No.100, Servant
quarter, Moti Bagh, New Delhi - APPLICANT

(By Advocate Shri A.K.Bhardwaj)

Versus

1. Union of India through the Secretary,
Ministry of Defence, North Block,
Central Secretariate, New Delhi.
2. The Commanding Officer, HQS, Western Air
Command, IAF, (Command PC), Subroto
Park, New Delhi-10.
3. The Commanding Officer, 1, Tetra
School, AF, Air Force Highgrounds
Chandigarh-160004.
4. The Chief Administrative Officer, Wing
23/27, Tetra School, Air Force High
Ground, Chandigarh - RESPONDENTS

(By Advocate Shri N.S.Mehta)

O R D E R

By Mr. N.Sahu, Member(Admnv)

The prayer in this Original Application is for a direction to the respondents to offer to the applicant a compassionate appointment after quashing the order dated 8.1.1998 which rejected the applicant's claim.

2. The background facts are briefly as under -
- the applicant's husband Shri Ram Lal died on 7.12.1994 in harness. Her two elder sons were already employed with the Government on the date of husband's death. The third son applied for compassionate appointment by an application dated 21.11.1995, which was rejected by the authorities on

the ground that his two brothers are already in Government service. That apart it is stated that the applicant had been paid a sum of Rs.73,000/- by way of GPF and gratuity; and is also getting family pension of Rs.575/- plus DA in the pre-revised scale. This is not a case of extreme indigence.

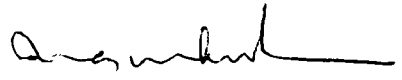
3. The learned counsel for the applicant, however, vehemently contends that the two sons employed are staying separately. They have also a large family to look after and they are not looking after their mother. Under the circumstances it is claimed that this is a case of extreme hardship as far as the applicant is concerned. She is not in a position to eke out a livelihood.

4. I have carefully considered the rival submissions. The applicant has a family of four sons and one daughter. The first two sons are no doubt employed but they are living separately. The two other sons are unemployed. The daughter is married but under a family custom she still is staying with the applicant on the ground she has not been able to arrange the necessary dowry for sending her to her husband. It is stated that the applicant has a responsibility of marrying off her two younger sons and consummating the marriage of her daughter. Shri Bharadwaj repeatedly stressed that the applicant does not have a roof to stay. In my view there is absolutely no case for compassionate appointment in view of the decisions of the Hon'ble Supreme Court in the cases of Umesh Kumar Nagpal Vs. State of

Haryana, (1994) 4 SCC 138 and S. Mohan Vs. Govt. of Tamilnadu, (1998) 9 SCC 485. In the latter case appellant's mother while in service of the Municipality died when the appellant was 12 or 13 years old and his two brothers were already employed and his father was receiving a pension. The appellant sought employment after a lapse of 10 years. This employment was terminated. The Supreme Court held that this employment was unwarranted because it was unjustified compassionate appointment. There was no immediate financial crises in the family which would warrant any out of turn appointment of the appellant on compassionate grounds. The facts in this case are similar. There are two sons who are already employed. The application of the third son was rejected. Now the widow has applied for compassionate appointment. Compassionate appointment is given only to mitigate the hardship caused to the family on account of the unexpected death of the bread winner. There is no such question of financial hardship, when two sons are employed and the applicant herself is receiving a family pension. That apart, under the Hindu Law there is a legal obligation on the part of the son to maintain his widowed mother. The right to maintenance can be legally enforced. In the pleadings also it has become clear that the daughter is married. It is not a case of penury or a case where the family could not make both ends meet. Since compassionate appointment is an exception to the general provisions of appointment every care has to be taken to see that compassion need not be exercised to the detriment of

several other deserving unemployed candidates. Any family dispute which might leave the widow helpless or in destitution is not an event directly related to or connected with the death of the bread winner. Hence the contention that sons do not care for the widow and are living separately cannot be a consideration to grant compassionate appointment.

5. In view of the above discussion, the OA is dismissed. No costs.


(N. Sahu)
Member (Admnv)

rkv.