

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1502 of 1996

New Delhi, this the 9th day of February, 1998.

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

1. Sh.Raj Kumar
S/o late Sh.Jagdish Kumar Barber
R/o WZ-841, Vill.Naraina,
New Delhi- 110 021
2. Smt. Raj Kumari
late Sh.Jagdish Kumar Barber
R/o WZ-841, Vill. Naraina
New Delhi - 110 021 ...Applicants

(By Advocate : Sh.Bhasker Bhardwaj proxy
for Sh.Arun Bhardwaj)

Versus

1. Union of India through
The Secretary
Ministry of Defence
South Block
New Delhi
2. Director General
Medical Services
Army Adjutant General Branch
Army Headquarters
New Delhi - 110 011 ...Respondents

(By Advocate : Sh.K.R. Sachdeva)

ORDER (ORAL)

By Sh. N. Sahu, Member(A) -

Heard.

2. The prayer in this OA is for a direction to the respondents to grant a job either to the applicant or to his sister (Applicant No.2) on compassionate grounds. The applicant's father Sh.Jagdish Kumar died in the Army Hospital on 24.11.1985. He served as a Barber. The family of the deceased received the following retirement benefits:

- (i) Family Pension of Rs.155 plus D.A.

- (ii) DCRG of Rs.13,726/-.
- (iii) Insurance amount of Rs.10,375/-.
- (iv) G.P.F. amount of Rs.9,045/-.

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3. The applicant applied in 1986 to Respondent No.2 for a job on a compassionate ground after furnishing particulars and followed by a representation in 1988. On 03.01.1988, Respondent No.2, rejected the claim. The applicant filed this OA on 25.03.1996 after a gap of slightly more than eight years. Reasons mentioned for delayed filing was that the applicant was allegedly deceived by an advocate who falsely mentioned to him that a petition had been filed. It was only after this advocate's death that the applicant woke-up to the realities and was informed that no OA was filed and no claim was pending. Learned counsel for respondents urged that the OA is delayed and hit by limitation. It is also stated in Para 4.17 of the counter that the mother of the applicants is receiving besides the above amounts, a monthly pension of Rs.1,000/-. The children have become mature and there is no liability of the deceased. The applicant is professionally adept as a Hair Dresser and is competent to earn more income than what he would get in a government job. Learned counsel for the respondents have cited the following decisions of the Supreme Court which lay-down the law on the subject of compassionate appointment:

- (i) Umesh Kumar Nagpal Vs. State of Haryana - 1994(4) SCC 138.

- (ii) Jagdish Prasad Vs. State of Bihar - 1996(1) SCC 301.
- (iii) Haryana State Electricity Board Vs. Naresh Tanwar & Ors. - 1996 SCC(L & S) 816.
- (iv) LIC Vs. Mrs. Asha Ramachandran - JT 1994(2) 183.

4. Learned counsel for the applicant strenuously urged that the facts stated in the OA were true and the applicant being illiterate had been led to believe that the OA was pending only to discover later that no OA was filed. He urged that the deceased was a poor Barber and his children's claim for compassionate appointment is well-deserved.

5. I have carefully considered the rival submissions. The law on the subject of compassionate appointment as urged by the learned counsel for respondents in the above cases as well as in other cases has become very well settled. There is no vested right in a compassionate appointment. It is a deviation from the public appointment through open competition or selection. In view of the long years of service that a Govt. servant renders and to tide over a financial crises, this appointment is given if a Govt. servant dies in harness. This appointment is limited to only Class-III and Class-IV jobs. The leading case on the subject is Umesh Kumar Nagpal Vs. State of Haryana (supra). It lays-down three prepositions:



(i) a compassionate appointment can be given only to tide over the stringent financial crises resulting out of the death of the only bread-winner in the family.

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(ii) the only consideration to be shown is whether the financial condition of the family is such that it deserves a compassionate appointment. This appointment should be given as quickly as possible so that the job would be a help to the surviving members of the family. In giving this appointment, the conditions laid-down by the Govt. regarding educational qualification shall be scrupulously observed though there is scope for relaxation on other counts.

(iii) finally, the Supreme Court has stated that it is for the Govt. to decide, on proper investigation, as to whether the applicant deserves the job or not and as long as decision is honest and bonafide, it cannot be judicially interfered with.

6. I am afraid that by filing Application late by eight years, the applicants have lost even on merits. There can be no question of a compassionate appointment when the death occurred as early as in

1985 and a petition is filed in 1996 and considered in 1998. The question of such an appointment, more than a decade after the death of the bread-winner is simply not justified under the law as it exists today. The moot question that is to be answered is how did the family survive all this decade after the death of the bread-winner and if the family was able to survive this period what is the need for compassionate appointment? As stated in the counter affidavit, the family represents professionally skilled Barbers, there is no need to cling onto a compassionate job. However, much we may have sympathy for the person, the deprivation of the applicant cannot be considered under the law as is existing today for a compassionate appointment.

7. OA is dismissed both on merits as well as on limitation.

N. Sahu
(N. Sahu)
Member (A)

/Kant/