

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA. No. 2489 of 1996

New Delhi, this 23rd day of October, 1997.

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

(10)

1. Smt. Anandi Devi
Widow Shri Lal Singh
2. Shri Ganesh Singh
S/o Late Shri Lal Singh

Both now residents of C/o Shri Narsingh
House No.34, State Bank Colony,
Rani Bagh, Sant Nagar, New Delhi-34. ... Applicants

By Advocate: Shri H. P. Chakravorty

versus

Union of India, through
Director General,
Supply & Transport,
Quarter Master General's Branch
Army Headquarters
New Delhi. ... Respondents

By Advocate: Shri R. P. Aggarwal

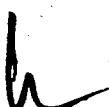
O R D E R (ORAL)

The applicant no.1 is the widow of one late Shri Lal Singh who died in harness on 9.9.90. It is stated that he left his wife and five sons dependent on him, all majors, at the time of his death. The applicant no.1 had moved an application for compassionate appointment of her fourth son Shri Bishan Singh who was stated to be living with her and dependent on her. While three other elder sons were living with their families separately with independent source of income, the respondents engaged Shri Bishan Singh as casual labourer for the period from 23.1.91 to 19.8.91. In the meanwhile, her application for

compassionate appointment for this son was also sponsored by the respondents and the same was awaiting approval of the appropriate authority. Shri Bishan Singh was stated to have been disengaged on 19.8.91 due to his "bad character activities" and his work was also found to be unsatisfactory and he was caught stealing government stores. Subsequently, when the application for compassionate appointment was forwarded for seeking clarification it was found that Shri Bishan Singh was already disengaged. The applicant no.1 made a representation denying the allegations against her son in August 1993 and she was duly informed of the position vide letter dated 22.8.93. After this, the applicant no.1 moved for compassionate appointment of her second son who is applicant no.2 here. This applicant was also engaged as a casual labourer with effect from 15.6.94 and as and when required. It is stated by the respondents that Shri Ganesh Singh proved himself to be an unwilling worker and he refused to lift bags and loads requesting that he be given a white collar job since it was below his dignity to do hard labour, being a high school pass candidate. It was considered that he was a bad influence on other workers, which would be detrimental to the service interest and, therefore, he was disengaged as casual labourer with effect from 22.10.94.

(11)

The applicants pray in this OA that the respondents may be directed to consider the case of the applicant no.2 and grant him compassionate



appointment. The applicants have also denied the averments made in regard to Shri Bishan Singh and also applicant no.2 in the reply.

(12)

The counsel for the applicant argues that there is absolutely no basis to establish the bad conduct of Shri Bishan Singh and the respondents have disengaged his services and have not considered him for compassionate appointment. He, however, concedes that as Shri Bishan Singh is not the applicant in this case, he is not arguing further in the matter. He, however, argued that even in respect of applicant no.2 the allegation that he was an unwilling worker is not established by any factual record and he prays that the respondents should be moved to produced any relevant material to show that the respondents have come to a reasonable conclusion about the conduct of the applicant no.2 during his engagement he was engaged as a casual labourer, which had influenced their decision to deny the compassionate appointment.

The counsel for the respondents, on the other hand, reiterated the plea taken in the counter reply and submitted that on the basis to the representation given by the applicant no.1, she was clearly informed by their letter dated 10.3.96 (Annexure R-1) about the circumstances resulting in the disengagement of the applicant no.2 as casual labourer. He also pointed out that under the Scheme only the eligible dependent son is to be considered for compassionate appointment subject to the applicants fulfilling other requirements and taking into account the financial liabilities of the deceased government servant's

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family. He further pointed out that applicant no.1 was given all the family pension dues that she is entitled to under the rules and from the facts as available in the OA itself, excepting Shri Bishan Singh, no other person was dependent on the widow as available in the OA itself, excepting Shri Bishan Singh, no other person was dependent on the widow as to justify consideration for compassionate appointment. Even at that time of filing application for compassionate appointment of Bishan Singh, it was shown in the relevant application that applicant no.2 was shown to be running a General Store at Matatila and living separately and he is not dependent on applicant no.1. In the light of this, the counsel for the respondents contended that applicant no.2 has no case for grant of compassionate appointment as prayed for.

(3)

I have heard heard the counsel for the parties and perused the record.

It is an admitted position that the compassionate appointment sought for is only in respect of applicant no.2 in the OA. It is seen from the data at the time of seeking compassionate appointment of the elder son Shri Bishan Singh that the applicant no.2 was running a store and was not dependent on applicant no.1. It was only after Shri Bishan Singh was disengaged and as the compassionate appointment was not considered, applicant no.1 has filed a fresh application for compassionate appointment of applicant no.2 wherein he was shown to be a casual labourer living with his mother, which seems to be quite at variance with the particulars in

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her earlier application in respect of Shri Bishan Singh. Apart from this, the core concept of compassionate appointment has to be understood in the proper light. Compassionate appointment is not a benediction conferred on the petitioner. The law is well settled that compassionate appointment is not a vested right. The counsel for the respondents has rightly referred to the case of Umesh Kumar Nagpal Vs State of Haryana & Ors (JT 1994 (3) SC 525) wherein their Lordship has held that the whole object of granting compassionate employment is to enable a family to tide over the sudden crisis. Even then it was held that mere death of an employee in harness does not entitle his family for such employment and, therefore, the consideration of such employment is not a vested right which can be bestowed on any person.

(A)

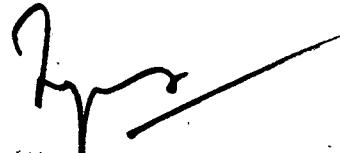
The counsel for the applicant referred to O.M. of Department of Personnel & Training dated 28.9.92 to stress the point that an application for compassionate appointment cannot be rejected merely on the ground that the family of the deceased government servant has received the benefits under the various welfare schemes. While these benefits should be taken into account, the financial condition of the family has to be assessed. The counsel for the applicant points out that no such assessment has been made in this case. It is unfortunate that when the applicant no.1 moved for the compassionate appointment of her first son Shri Bishan Singh, the circumstances were such that he was found to be unsuitable for the job because he had indulged in theft of government stores which was also pointed out to the applicant no.1 by the

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respondents. It was only thereafter that applicant had moved for compassionate appointment of her next son. Even otherwise in case of compassionate appointment it is not as though the appointment has to be considered, when the financial condition of the family has to be assessed even if the respondents are of the view that the concerned person for whom the compassionate appointment is sought is found to be unsuitable because of any adverse factors, or in the wake of adverse report against him. There is no law under which such a consideration can be granted. In any case, a compassionate appointment presupposes that respondents are satisfied in every other respect about character and antecedents and also about the conduct of the applicant for such appointment. It is unfortunate that in this case while the compassionate appointment was under process, the concerned claimant for compassionate appointment was found to be unsuitable as stated by the respondents. It is not possible for the court to probe into this matter by a roving inquiry.

(15)

Taking into account facts and circumstances of the case and the law laid down on the subject, I find that this OA is devoid of merit and the same is, therefore, dismissed. There shall be no order as to costs.



(K. Muthukumar)
Member (A)