

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1065 of 1997
MA NO. 1148/97

New Delhi, this the 2nd day of April, 1998

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

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1. Smt. Anguri Devi Wd/O Late
Sh. Sri Niwas, R/O Q. No.
32/Q/179, Ordnance Factory
Estate, Murad Nagar, Distt.
Ghaziabad (U.P.)
2. Sh. Anil Kumar S/O Late Sh.
Sri Niwas, R/O Q. No.
32/Q/179, Ordnance Factory
Estate, Murad Nagar, Distt.
Ghaziabad (U.P.).

--APPLICANTS.

(By Advocate Sh. Yogesh Sharma)

Versus

1. Union of India through the
Secretary, Ministry of
Defence, Govt. of India,
New Delhi.
2. The Director General,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.
3. The General Manager,
Ordnance Factory Board,
Murad Nagar (U.P.).

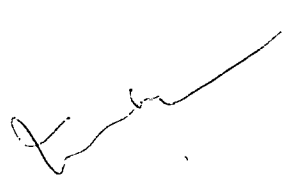
--RESPONDENTS.

(By Advocate -Sh. S. Mohd. Arif)

O R D E R (ORAL)

By Mr. N. Sahu, Member(Admnv) -

The prayer in this OA is to quash the impugned order dated 24.7.1995 (Annexure A-II) and the order dated 8.1.1997 (Annexure A-I) rejecting the claim for compassionate appointment.



The admitted facts are as follows:-

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Late .Sh. Sri Niwas was working as a Labourer in Ordnance Factory, Murad Nagar Distt. Ghaziabad (U.P.) and died on 9.2.1995 in harness. He rendered the service of more than 32 years and he would have retired from service in normal course on 29.02.2000. Applicant No. 1, widow of the deceased Government Employee, applied for compassionate appointment of her son Sh. Anil Kumar, Applicant No. 2. The family members of the deceased are widow, two married daughters, one unmarried daughter, one unmarried major son and one son is minor. The widow herself is unemployed. The reason for rejection in the impugned orders are:-

- "i) The major sons/ married daughters are not considered as dependent on the deceased employee's family.
- ii) The family of the deceased employee has received Rs. 1,91,591/- as terminal benefits and is getting Rs. 1,900/- PM as family pension, as on date."

The learned counsel for the applicant has drawn my attention to OM No. 14114/14/91-Estt. (D), dated 28.9.1992 in which instructions have been issued that the financial condition of the family has to be taken into account sans the retiral benefits. It is stated that the

claim of the applicant cannot be rejected merely on the ground that the family of the deceased Govt. servant has received benefits under the various welfare schemes. This OM also lays down the following criteria to assess the financial condition of the family- i) The presence of an earning member; ii) Size of the family; iii) Ages of the children; and iv) Essential needs of the family.

The learned counsel for the applicant has drawn my attention to a decision of this Court in the case of Smt. Hanifa Begum Vs. Union of India & Others, OA No. 1393 of 1993 decided on 17.1.1994 wherein under similar circumstances there was a direction not to consider the terminal benefits given to the family as the sole basis for rejection of a claim for compassionate appointment.

The learned counsel for the respondents, on the other hand, argued that the married daughters cannot be considered as dependents. If they had not been married and also there had been no source of income only then they would have been treated to be dependent on the applicants. Learned counsel for the respondents relied on a decision of the Hon'ble Supreme Court in the case Life Insurance Corporation of India Vs. Mrs. Asha Ram Chandra Ambekar and Another 1994 (2) SLJ 111 = JT 1994 (2) SC 183 and urged that this Tribunal has no jurisdiction to direct the compassionate appointment.

I have carefully considered the arguments from both the sides. The law is crystalised by the Hon'ble Supreme Court in the case of Umesh Nagpal Vs. State of Haryana & Others, (1994) 27 ATC 537 = JT 1994 (3) SC 525

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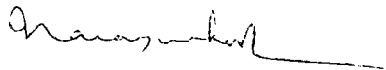
directing the respondents not to consider the retirement benefits received by the family as conclusive of the financial viability of the family. The only ground for consideration in this case is the financial condition of the family, after taking into account the submission made in the pleadings that a large amount was spent on the deceased himself. Merely because the major sons of the applicant are major, they do not ipso facto cease to be a liability. This is not a correct approach of the respondents. If the major sons are unemployed, they are an additional burden on the family on the death of the bread winner. With regard to the retirement benefits received, no doubt, as on date of receipt the amount of Rs. 1,91,591/- is an attractive amount but a portion had been spent on medical treatment of the deceased before his death. I am informed at the bar that the family does not have a roof to live in. In these hard days of living, a source of Rs. 1,900/- for a large family of widow with three dependents is certainly inadequate. It is for the respondents to reconsider the financial status of the family of the deceased taking into account whether the family could subsist on this meagre amount. It is admitted that none of the major son or daughter has a source of livelihood or is employed. No other source of income has been mentioned. In view of this it is for the respondents to assess the financial viability and arrive^{at} ~~at~~ conclusion whether the family can live with this meagre amount for livelihood.

(5)

Compassionate appointment is not a matter of right. It is conferred only when the eligible member of family has a requisite qualification and the appointment can be given only either to group 'C' or group 'D' post. The respondents have to consider these aspects also.

In view of the above discussion, I would direct respondents No. 3, General Manager, Ordnance Factory Board, Murad Nagar to reconsider the claim of the applicant and assess the family's financial viability in the light of the guidelines given in the Ministry of Personnel's OM cited above. and if it is satisfied that the financial condition of the family is pecuniarily thin and lean, to consider a compassionate appointment to any eligible member in the family.

The OA is disposed of as above.


(N SAHU)
MEMBER (ADMNV)

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