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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2775/97

New Delhi this the 17th day of September, 1998

HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. Smt. Raj Rani, W/o Late Shri Om Prakash,
r/o 3G-45, Kalkaji,
New Delhi.
2. Mr. Deepak S/o late Shri Om Prakash,
R/o G-45, Kalkaji,
New Delhi.

.....Applicants

(By Advocate: Shri R.N. Singh)

Versus

Union of India through

1. Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi (through Secretary),
2. The Director General of Works,
C.P.W.D., Nirman Bhawan,
New Delhi.
3. The Chief Engineer,
C.P.W.D. Vidyut Bhawan,
New Delhi.
4. The Superintending Engineer,
Delhi Central Electrical Circle-7,
C.P.W.D. East Block,
R.K. Puram, New Delhi.
5. The Executive Engineer,
Electrical Division-9,
C.P.W.D. East Block,
R.K. Puram,
New Delhi.

.....Respondents

(BY Advocate: Shri D.S. Jagotra)

ORDER (ORAL)

delivered by Hon'ble Shri S.P. Biswas, Member (A)

The applicant, widow of the deceased employee late Shri Om Prakash, is before us seeking appointment for her second son on compassionate grounds. Late Shri Om Prakash, after having put in

20 years of qualified service, died in harness at the age of 44 because of cancer. The deceased employee was working as Asstt. Pump Operator in Grade 'C' under the respondents. At the time of his death, the employee left behind his widow, two sons, one daughter-in-law and two grand children. The application for compassionate appointment was initially made in favour of applicant No.2 on 16.11.1995.

2. The law/principles/instructions that would govern appointment on compassionate grounds are elaborately indicated in DOP&T OM No. 14014/6/86-Estt (D) dated 30.6.1987. The instructions therein have to be adhered to keeping in view the law laid down by the Hon'ble Supreme Court in the cases of Life Insurance Corporation of India Vs. Asha Ramchander Ambedkar [1994 (27) ATC 174] and also in Umesh Kumar Nagpal Vs. State of Haryana & Ors. [1994 (4) SCC 138]. The basic consideration which goes to the root of the issue is whether the family is in the need of immediate succor and that there is none else to save the family from the condition of being rendered as destitutes. Besides economic criterion, yet another important consideration is that there should be somebody within the definition of deceased's family members who could satisfy other eligibility conditions. If these two conditions are fulfilled, the foundation is made for consideration of compassionate appointment.

3. From the records we find that the respondents after having considered the applicant's case issued a communication vide Annexure 'A' dated 22.7.1996. That communication says "after sympathetic consideration on the application regarding appointment on compassionate ground of Mr. Deepak s/o late Shri Om Prakash, the case has not been found fit for giving appointment".

4. The aforesaid order contains only the conclusion not the reasons. It is well settled in law that the executive authorities, exercising quasi-judicial powers, are required to indicate the reasons for the conclusions reached particularly when such conclusions affect somebody adversely with civil consequences. Such an order without reason is a nullity in the eyes of law as laid down by the Constitution Bench of the Hon'ble Supreme Court in the case of S.N. Mukherjee Vs. UOI [1990(5) SLR 8]. The Constitution Bench held that orders/decisions should contain the reasons for arriving at those conclusions. The impugned order dated 22.7.96 as at Annexure 'A', therefore, deserves to be struck down in terms of the law laid down on the subject.

5. Being frustrated with the aforesaid communication at Annexure 'A', the widow of the deceased employee sought appointment in her favour. We find from the records that she was even called for an interview for the post of Khalasi on 21.2.1997. The interview did take place but there was no communication with reference to the interview that

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(12)

took place. What is surprising is that the respondents decided to have a volta face in respect of the entire issue by communicating A-6 order dated 26.3.1997 by which they have not only rejected the claim of the applicant No.2 but have also ensured that nothing survives so far as the main claim is concerned. The communication at A-6 is without any finding as regards economic condition of the family which is the main consideration for approval or rejection of such claims. That apart, rejection of applicant No.1's claim because of rejection of applicant No.2's claim could not be held as valid. This is because of each one of them individually is without any reason. Such bold assertion can't serve the requirements under law.

6. The pleadings of the respondents and evidences adduced by them on record are inadequate and hence we decided to look into the concerned official files before taking any decision in the matter. Perusal of the file shows that the widow of the deceased employee was considered for appointment vide respondents' notings dated 3.4.1997. Obviously, when such a decision was taken it was on the basis that all the conditions for such compassionate appointment were satisfied. The conclusion reached on 3.4.1997 bears testimony to such a view. What is really surprising is that after a gap of about 1 1/2 months yet another note was added saying that "applicant's son is employed living with his mother and younger brother. Whether the son employed is supporting the family or not is not evident on file. What was necessary was to indicate

if the son who is otherwise employed is really providing any economic assistance to the family. The mere presence of a gainfully employed son by itself does establish that the family is out of economic distress. If the employed son does not help the family and remains separate, the basis of compassionate appointment still survives as has been held by Hon'ble Delhi High Court in a recent judgement. The same situation prevails here, as per applicants.

7. Close reading of the entire file indicates that the respondents have not even made a reference to the principles enunciated by the DOP& T in examining this case. What was required was to come to a definite conclusion that the family is or is not in need of immediate succor. In short, in the background of DOP&T's instructions in OM dated 30.6.87 and the law laid down by the Apex Court in a long chain of decisions, respondents' decision making process has been vitiated on account of non-examination of vital items of considerations.

8. In view of the details aforesaid, both the communications at A-1 and A-6 are without any application of mind and deserve to be set aside. The O.A. is accordingly allowed with the following directions:

- i) Orders dated 22.7.1996 and 27.3.1997 shall stand quashed.

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(19)

ii) Respondents shall consider the case of compassionate appointment in favour of applicant no. 2 in the light of law laid down by the Apex Court as well as the instructions of the DOP&T in OM dated 30.6.1987.

iii) Respondents shall carry out the required exercise within a period of three months from the date of receipt of a copy of this order and the results thereof shall be communicated to the applicant no.1 accordingly.

iv) There shall be no order as to costs.


(S.P. BISWAS)

MEMBER (A)

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