

CAT/1

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 902/97
T.A. No.

199

DATE OF DECISION 19.12.97

Smt. Bimla Devi

Petitioner

Sh. G. D. Bhandari

Advocate for the Petitioner(s)

Versus

UOI & Ors

Respondent

Sh. Madhav Panikar

Advocate for the Respondent

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble

1. To be referred to the Reporter or not? yes

X

2. Whether it needs to be circulated to other Benches of the Tribunal

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No. 902/97

New Delhi this the 19th day of December, 1997.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Smt. Bimla Devi,
W/O Late ShBabu Ram,
ID No. 11985-V,
Safaiwala, Caretaker Staff,
O/O US(Tele.) RRC,
Patpar Ganj, New Delhi.

○ Residential address.
B-627/7, Rajvir Colony,
Near Kondli Village,
Delhi-110096.

..Applicant

(By Advocate Sh.G.D Bhandari)

VS

Union of India, through
The Secretary,
Cabinet Secretariat,
Govt. of India, South Block,
New Delhi.

○ The Under Secretary (Pers. VII),
Cabinet Secretariat,
Govt. of India, Room No 7,
Bikaner House (Annexe), Shahjahan Road,
New Delhi.

(By Advocate Sh. Madhav Panikar) ..Respondents

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant is aggrieved by the Memorandum dated 23.5.96 whereby ~~her~~ request for compassionate appointment, consequent ~~on~~ the death of her husband has been turned down (Annexure 1). She has alleged that this order is arbitrary and is illegal as no reasons have been given for the rejection.

2. The brief facts of the case are that the applicant's husband, Sh. Babu Ram, died while working as Safaiwala with

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the respondents. The applicant is the second wife of late Shri Babu Ram. His first wife expired some time in 1980. The respondents have on the basis of the records available with them, stated that payments of DCRG, GPF, DLI, CGEIS and Leave Encashment have already been paid as per rules to the applicant, as widow of late Shri Babu Ram, and she is also the legal guardian of their minor children. From the first wife, it is stated that Babu Ram had one daughter, Km. Seema, and one son, Master Ajit Kumar. From the reply given by the respondents, it appears that they have rejected the application submitted by the applicant for compassionate appointment on the ground that the applicant was not supporting her step children who are living separately with their uncle. They have also submitted that since ^{the} major portion of the dues and family pension for life have been given to the applicant, they have informed Km. Seema to apply for compassionate appointment after she attains the age of 18 years, which would be some time in December, 1998 i.e. one year from now. Shri G.D. Bhandari, learned counsel for the applicant submits that the applicant is a young widow who has to support her own ^{minor} children and she was not opposed to support the children of the first wife also, for which she undertakes to file an affidavit in this regard. He submits that the reasons given by the respondents in rejecting her application for compassionate appointment is not legally sustainable, as no where the respondents have stated that

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the applicant is not entitled for such appointment and there was no need to wait another ~~one~~ ⁸ year to consider the claim of Km. Seema, daughter of late Sh. Babu Ram for compassionate appointment.

3. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties. In

Umesh Kumar Nagpal V. State of Haryana and Ors. (JT 1994(3)SC 525), the Supreme Court, while dealing with the appointment on compassionate grounds, has held that "these are done, ^{pure} out of humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet..."

It was further held that "the whole object of granting compassionate employment is thus to enable the family to tide over the sudden crises. The object is not to give a member of such family a post, much less a post for post held by the deceased." The Court further held as follows:-

"The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

(Emphasis added)

In the present case, the breadwinner of the family, late Shri Babu Ram, had expired on 31.3.94. Admittedly, the

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applicant could not make an application for compassionate appointment earlier due to certain police investigations which were pending on the question of his death, but now the respondents have also stated that the same have been completed and no foul play has been found against the applicant. The respondents have themselves stated that all the payments regarding DCRG and CGEIS etc. due to the widow of late employee have been paid to the applicant. It is also relevant to note that the learned counsel for the applicant has undertaken to submit an affidavit to the respondents that the applicant is willing to take care of the two children from the first wife, namely, Km. Seema and Master Ajit Kumar, in addition to her own children.

4. Having regard to the observations of the Hon'ble Supreme Court in Umesh Kumar Nagpal's case(supra), in the circumstances of the case the reasons given by the respondents that they are withholding the application of Km. Seema on the ground that she should apply for compassionate appointment after she attains the age of 18 years i.e. after one year from now in December, 1998 are not tenable. What is required in such cases is to try and provide, if possible, immediate financial support in deserving cases, to the family, which is suddenly deprived of the breadwinner who dies in harness. In this case, the deceased having expired more than 3 years back, therefore, it would not seem appropriate to wait for another year to consider appointing Km. Seema on compassionate

grounds as proposed by the respondents.

5. In the above circumstances of the case, this application is allowed and is disposed of with the following order. The impugned order rejecting the request of the applicant for compassionate appointment dated 23.5.96 is quashed and set aside. The respondents shall consider the applicant's request for compassionate appointment in accordance with law/extant rules and instructions, subject to her furnishing the affidavit to support the two children of the first wife, as mentioned above, within a period of two months after receipt of the same, with intimation to the applicant.

No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

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