

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 2202/94

New Delhi, dated the 30th May, 1995

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

Shri Laxmi Narayan
s/o Late Smt. Sona Devi
R/o K-210, Sewa Nagar,
New Delhi.

... Applicant

(By Advocate Shri A.K. Behera)

Vs.

1. Union of India Through,
the Secretary, Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. Chief Engineer,
Office of the Chief Engr. (NDZ) I,
C.P.W.D. New Delhi.
3. The Superintending Engineer,
Co-ordination Circle (Civil),
C.P.W.D. I.P. Bhawan,
New Delhi.
4. Estates Officer,
Directorate of Estates,
Room No. 407- B,
Nirman Bhawan, New Delhi.

... Respondents

(By Advocate Shri B. Lall)

O R D E R (OPAL)

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

This application has been filed by the applicant
for appointment on compassionate grounds.

2. The applicant is the 3rd son of late Smt. Sona
Devi, who was working as Mali in the Horticulture
Division of C.P.W.D. She died in harness on 11.6.1992.

The application was filed on 2.11.1994 praying for a

direction to the respondents 1 and 2 to appoint ⁽¹⁰⁾ the applicant on compassionate basis in a suitable post and to direct the respondent No.3 to regularise the quarter allotted to the late Smt. Sona Devi, in his name.

3. By the order of the Tribunal dated 24.5.1995, ^{non flat} it is office Memo. passed by the respondents bearing No.5/14/93-EC-V dated 9-5-1995 was submitted by the learned counsel for the respondents, which has been taken on record. In this O.M. respondents have stated that the case of the applicant for appointment on compassionate grounds has been carefully examined by the competent authority and it is not ^{as per} found a fit case for such appointment under the rules since three children of deceased Govt. servant are already gainfully employed.'

4. Shri Behera, learned counsel for the applicant has submitted that the aforesaid O.M., ^{is} on the face of it erroneous because the respondents themselves in their reply filed on 14.12.1994 accepted his averment in para 4.2, that he has only two brothers who are employed and are living separately and not ^{three} ~~three~~ children as mentioned in the O.M. He has also referred to the statement given by the respondents in their reply that after examining the case, the Chief Engineer (NDZ) I of CPWD has issued directions to the Superintending Engineer Coord. Circle (E1.) on 2.5.94

193

to reserve a vacancy of Khallasi for the applicant (Annexure A-2). He submits that if this is so, the respondents themselves have duly verified the facts stated by him and have come ^{to a} prima facie ^{and it is} ~~to a~~ conclusion that he fulfilled the conditions for appointment on compassionate grounds ^{which} was for this reason, that ^a post had been kept vacant for him as Khallasi.

After taking sufficient time to consider the matter, he submits that it was not open to the competent authority to reject the applicants' claim for compassionate appointment in the order dated 9-5-1995. He relies on the judgments in Phoolwati V.U.O.I. & Others (1991(17) ATC page 937), Smt. C.Jhanshi v.G.M. (1991) Vol 3 SLJ CAT page 25) and Sh.K.Krishan Kumar v.U.O.I. & Others (1992) 21 ATC page 142.

Shri Behera submits that in the facts and circumstances of the case, ~~since the respondents have taken time to consider the case~~ ^{since the respondents have} suitable directions may be given to the respondents to appoint the applicant in the post kept reserved for him.

5. Shri B.Lall, learned counsel for the respondents has submitted that compassionate appointment has to be made keeping in view the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) O.M. No. 14014/20/90 Estt.(D) dated 9-12-1993. He has also relied upon the latest

12
judgment of the Supreme Court in LIC v. Asha Ramchandra Ambekar (1994 (2) SCC 718 which has been followed in Pyara Devi v. DG, CSIR & others (1994 (28) ATC page 116.

Shri Lall submits that having regard to the scope of judicial review, no such direction as prayed for may be given to the respondents. However, if further representation is submitted by the applicant bringing out the facts in the case, respondents may be directed to re-consider the case for compassionate appointment keeping in view the relevant O.M. and facts of the case.

6. I have carefully considered the records in the case and the arguments of both the learned counsel. There is some force in the arguments advanced by Shri A.K. Behera that the respondents have taken contrary stands in the impugned order dated 9.5.1995 that 'three children of the deceased Govt. servant were gainfully employed, as a reason for rejecting the request for compassionate appointment, whereas in their reply it is alleged that the applicant has only two brothers who were employed and were living separately.

7. Taking into consideration the facts and circumstances of the case, therefore, this
28. OA is disposed of with the following directions:-

- 12
- (i) The applicant shall re-submit his application requesting for compassionate appointment bringing out all the relevant facts within 10 days from today.
 - (ii) The application shall be submitted to the respondent No.2 i.e. Chief Engineer (NDZ)-I, CPWD, who shall consider such representation within a period of four weeks from the date of receipt of the application. The respondent shall pass a speaking and reasoned order taking into account the relevant facts and communicate the order to the applicant.
 - (iii) Till such time as the respondent pass^{the order} order as above, the applicant shall be allowed to continue in the quarter and shall be charged licence fee in accordance with law.
8. This O.A. is disposed of as above. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

sk