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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.122/94
C.A. No.130/94

NEW DELHI THIS THE 15TH DAY OF SEPTEMBER, 1994

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

1. Shri Man Singh S/o Sh. Duli Chand
2. Om Pal S/o Shri Man Singh
R/o H.No. 33, 'D' Block
Zil Mil Colony,
Sahadra,
New Delhi-32.Applicants

(By Advocate : Shri V.P. Sharma)

VERSUS

UNION OF INDIA, THROUGH

1. The Secretary,
Ministry of Defence,
Dept of Defence Production,
New Delhi.
2. The Director General,
Ordnance Factor Board,
10-A, Auckland Road,
Calcutta.
3. The General Manager,
Ordnance Factory,
Muradnagar,
Distt. Ghaziabad (U.P.) ... Respondents

(By Advocate : Shri VSR Krishana)

JUDGEMENT (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was working in Ordnance Factory Muradnagar as Muzdoor was medically Boarded out from service on 23.02.1991. Shri Man Singh was due for his superannuation on 31.07.97 but was medically boarded out when he was short of six years of age. Shri Man Singh (Applicant No.1) had requested on 14.06.91 for compassionate appointment of his 3rd son Shri Om Pal Singh. The family of the applicant consists of 2 married sons viz

Shri Tula Ram aged 38 years & Shri Prem Singh 36 years, earning Rs. 600/- and Rs.700/- respectively (as admitted by the respondents) and 2 unmarried daughters of the age of 25 years and 23 years and Applicant No.2 i.e Shri Om Pal age 21 years. The applicant as per O.M. dated 9th November,93 issued by the Department of Personnel, Public Grievances and Training, applied for the appointment of one of his sons on the compassionate ground. The respondents considered the case of the applicant and rejected the same by the impugned order dated 5th March,1993 (Annexure A-1), informing that the case was considered by the Ordnance Factory, Calcutta and the request for compassionate appointment has not been accepted.

2. In this application jointly filed by the retiree and his son, the relief is prayed for a direction to the respondents to appoint one of the sons of the applicant i.e. Applicant No.2 after quashing impugned order dt 05.03.1993.

3. The respondents in their reply stated that the case of the applicant has been considered in the light of the O.M. 09.11.93 enclosed with the Counter (Annexure R-3) and the applicant No.2 was not found to fit in the said Circular to get in appointment on compassionate gound. It is further stated that the law laid downs by the Supreme Court in the case of Life Insurance Corporation of India Vs Mrs Asha Ram Chander Ambekar (JT 1994 (2) SC 183. The power of the Tribunal is not to make a direction for appointing a person on compassionate ground but only the matter can be remitted to the

authority for consideration of the case. In another judgement of the Hon'ble Supreme Court Shri Umesh Kumar Nagpal Vs State of Haryar JT 1994 (3) SC 525 has held that the financial condition of the family must be taken into account and that a job on compassionate ground cannot be offered as a matter of course irrespective of financial condition. In view of this it is said that the application deserves dismissal.

4. We heard the applicant's Counsel who has reinforced the contention by reiterating the same in the rejoinder filed with this application.

5. We have considered the rival contention of the parties gone through the law laid down ^{that} ~~by~~ the High Court and Administrative Tribunals ought not to confer venediction impelled by sympathetic considerations and disregardful of law. Undisputedly an indigent family is one where the financial resources cannot keep the family the family atleast for meeting necessary feeding items to sustain livelihood of the person concerned dependents and other members of the family. Both the sons in the family~~s~~ of applicant are above the age of 35 years and have got their own family. The latter having a family of 3 children~~s~~, wife and self and younger one son having 2 children~~s~~, wife and self. And the income admitted to the respondents of both of them respectively is Rs.700/- and Rs.600/-. It is also admitted to the respondents in their reply that they are living separately and have eschewed from their responsibility of giving any

succour to the parental family. When this fact is admitted to the respondents then if there are earning sons and other persons in the family who have got their own liabilities to be borne primarily should be taken into account but only to that extent whether the income of those who could render some help to the family is sufficient or not. In these hard days the amount mentioned as income of both the self-employed mazdoors cannot be said to be sufficient to meet the family expenses for their own family. It is not the case of the respondents that there is another source of income of self-employed sons.

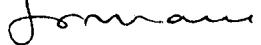
6. The retiree is also given a pension of Rs.471/- in terms of relief whatever is called. He has the liability of 2 unmarried daughters and applicant No.2 besides his wife. In these circumstances the respondents should have considered the case of the retiree who has been boarded out on medical ground 7 years earlier to the normal age of superannuation, whether it is a fit case or not. The reply of the respondents in fact support the case of the respondents regarding the status of the family. But only because the 2 major sons in advance age of 36 and 38 are earning something for themselves and family so the compassionate appointment was disallowed. In the case of Umesh Kumar Nagpal quoted above the Hon'ble Supreme Court has clearly laid down the law that the financial condition of the family must be taken into account and that job on compassionate ground whether can be offered or not. We find that the respondents have not tackled this matter from that angle.

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7. The applicant family also has a piece of land measuring 50 yards for residential purposes in the village. Even if the constructed portion over it is let out it would not give much income.

8. In view of the facts and circumstances the impugned order of March 1993 is set aside and the case is remitted to the respondents to consider the case of Applicant No.2, Shri Om pal Singh. In the light of the facts stated in this judgement as well as in the case Shri Umesh Kumar Nagpal and in the light of the reply they filed in the counter at page 2 in Para 4.1 to 4.8, the respondents to take expeditious decision and convey the same to the applicant. The application is disposed of accordingly, leaving the parties to bear their own costs.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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