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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.168/94

New Delhi, this the 23rd day of September, 1994.

HON'BLE SHRI P.T. THIRUVENGADAM MEMBER (A)

Smt. Sudesh Kumari
w/o late Shri Ved Prakash Sharma
r/o Sec.VI/153, R.K.Puram,
New Delhi.

2. Shri Pawan Kumar
s/o late Shri Ved Prakash Sharma
r/o Sec.VI/153, R.K.Puram,
New Delhi.

..Applicants

(By Advocate Shri RV Sinha)

Vs.

1. Union of India, through: Secretary,
M/D Telecommunication,
Sanchar Bhawan, New Delhi.

2. Deptt. of Personnel & Trg.
M/o Personnel, P.G. & Pensions,
North Block, New Delhi.

3. Chief General Manager Telephones,
Mahanagar Telephone Nigam Ltd.,
Khurshidlal Bhawan, New Delhi.

..Respondents

(By Advocate Shri AK Sikri)

ORDER

HON'BLE SHRI P.T. THIRUVENGADAM MEMBER (A)

MA 193/94 for joining together is allowed.

Applicant No.1 and 2 are wife and son respectively of the deceased Shri Ved Prakash Sharma who died on 26-11-1991 at the age of 52 years. At that time he was working as permanent Auto Exchange Assistant at Telephone Exchange, Hauz Khas, New Delhi. Applicant No.2 sought compassionate appointment with the respondents. His request was turned down by letters dated 20-2-92 and 17-12-1992 (An.A1 and A2 to the O.A.). This O.A. has been filed praying for the following reliefs:-

- i) Declare the impugned orders dated 20-2-92 and 17-12-92, arbitrary, discriminatory and illegal and further quash the same.

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- ii) Issue direction order against the respondents to consider the applicant No.2 for appointment against group 'C' post on compassionate grounds and give appointment within stipulated period.
- iii) Issue direction to respondents to prepare a scheme so as to give appointment at least to one of the wards of the deceased government servant dying in harness within stipulated period.
- iv) Direct the respondents to regularise the said government accommodation No.Sector VI/153, RK Puram, New Delhi in applicants name within stipulated period after decision of his case of compassionate appointment with further direction to respondents to charge only normal rent/licence fee in respect of the said quarter.

2. The learned counsel for the applicant mentioned the following grounds in the O.A.

The deceased employee was survived by a large family comprising two sons and two daughters apart from the widow. Amongst the daughters, one is unmarried and the other one is married but widowed. The settlement dues are hardly adequate for the family considering the social liabilities. It was admitted that the elder son is employed as Income Tax Inspector but since he is having a separate establishment, his support can-not be assumed. The request for compassionate appointment has been turned down by non speaking

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orders by simply mentioning that the case had been examined by the competent authority/high power committee and the case stood rejected.

3. The learned counsel for the respondents argued that compassionate appointments cannot be claimed as a right and the family circumstances were fully taken into account before rejecting the request. It was mentioned that a total amount of Rs.1,46,684/- was disbursed as settlement dues and in addition a total amount of Rs.14,37/- per month is being received by the family by way of pension. The competent authority had considered the case taking into account that the elder son is working as Income Tax Inspector and other aspects. Reference was also made to Supreme Court observations in LIC Vs. Asha Rani Chandra Ambekar (JT 1994(2)SC 183). This was a case where the order passed by the lower court directing appointment on compassionate ground when one of the members of the deceased family was already gainfully employed, was set aside by the Hon'ble Supreme Court. It has been observed that the High Courts and the Administrative Tribunals concerned cannot confer benediction impelled by sympathetic consideration.

4. He then argued that the elder son cannot be treated as a family member since he is living under a different roof. It was however admitted that the term 'family' has not been defined in the scheme relating to compassionate appointment. I have to only observe that in the relevant social set up, the elder son even if living separately cannot be normally expected to be totally dislinked from the affairs of the other members of his family.

5. Certain cases of compassionate appointment already sanctioned were referred to in support of his argument that there has been discrimination. The respondents have stated that there is no pick and choose policy and the cases which fall within the parameters of the

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guidelines are given due consideration.

6. It was also argued that the rejection has not been made by the competent authority and the issue regarding relaxation, if necessary, should have been put up to the Secretary to the Government as this is a deserving case. The respondents' reply was that rejection was made by the competent authority and relaxation cannot be claimed as a matter of right.

7. After having heard both the counsels and keeping in mind the guidelines laid down by the Hon'ble Apex Court, I find that there is hardly any case for judicial review or for direction for appointment. Even with regard to the rejection order being non-speaking, having gone through the written statement of the respondents and after hearing the arguments of the learned counsel for the respondents, I do not think it necessary to interfere on this ground. However, the learned counsel for the applicant mentioned in the beginning of the arguments that he was having some hope of favourable reconsideration by the respondents.

8. In the circumstances, the U.A. is dismissed. This is without prejudice to the respondents reconsidering the issue of compassionate appointment, if they so choose.

No costs.

P. T. Thiruvengadam
(P.T. THIRUVENGADAM)
Member (A)

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