

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1693/94

(A)

New Delhi, this the 1st day of January 1995

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

Smt. Asha Srivastava
wid/o late Arun Srivastava
r/o G-64, Mata Sundari Road,
New Delhi.

..Applicant

(By Advocate Shri A.K.Tandon)

Vs.

Union of India: through

1. Secretary to the Govt. of India,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

2. The Directorate of Printing,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

3. The Manager, ..Respondents
Govt. of India Press,
Minto Road, New Delhi.

(By Shri VSR Krishna Advocate)

ORDER

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicant's husband was working as a copy holder in the Government of India Press, New Delhi. He expired on 22-2-93. The applicant applied for compassionate appointment. The applicant has also retained the house allotted in the name of her husband. This O.A. has been filed for directions to appoint forthwith the applicant on compassionate basis with retrospective effect from the date of her husband's death with all consequential benefits and for regularisation of the allotment in her name.

2. The 1st counsel for the applicant drew attention to the difficult conditions of the family. The settlement dues comprised GPF of Rs.7652/-; Gratuity of Rs.6335/-; Insurance of Rs.34096/- and death benefit of Rs.1200/- apart from a pension of about Rs.1150/- per month.

It was mentioned that the debts incurred in connection with the illness of the applicant's husband who died of brain tumour have eaten into these dues. The composition of the family comprises the widow, a son and a widowed mother of the applicant. Since the deceased person died at a young age of 35 years the burden on the family has become more.

3. It is pleaded that compassionate appointment is deserved in this case on priority basis. It is admitted that respondents had advised on 15-9-93 that the case of the applicant has been included in the list of deserving cases for employment on compassionate appointment quota and that her request would be considered in turn. It is argued that this Tribunal and even Apex Court have been taking a sympathetic view with regard to provision of immediate succour by providing compassionate appointment. In some cases even the creation of supernumerary posts had been ordered.

4. The 1d. counsel for the respondents referred to the orders passed by this Bench of the Tribunal in OAs 2753/90 and 1417/90 on the subject of compassionate appointment in Government of India Press. As per the directions in these O.As a Scheme has been evolved and the Scheme was also submitted to this Tribunal and the following order was passed on 16-4-93 in CCP No.138/92 in O.A.No.1417/90:

"We are satisfied from the material placed before us that an honest effort has been made to prepare the scheme in accordance with the judgement of the Tribunal. Hence, we consider it appropriate to drop these proceedings."

The learned counsel mentioned that as per provisions of the Scheme, the applicant has already been included in the list of deserving cases for consideration for employment on compassionate basis. It has been explained that the Scheme does not envisage every case being included in the list of deserving cases. To that extent priority/special consideration has been shown to the applicant by including her name in the list. However she has to wait for her turn since cases deserving similar consideration and which have been registered earlier have to be first disposed of. It may take some time before the applicant is offered a job.

5. The learned counsel for the applicant also referred to the observations of Their Lordships of the Supreme Court in the recent cases like LIC Vs. Mrs. Asha Rama Chander Ambedkar (JT 1994 (2) SC 183) and Umesh Kumar Nagpal Vs. State of Haryana & Ors. (JT 1994(3) SC 525). As per these observations, compassionate appointment is not an entitlement and the courts cannot direct appointment on compassionate basis. The only direction that can be given is a direction for consideration of the claim.

6. In the circumstances the relief claimed for a direction to the respondents to forthwith appoint the applicant on compassionate grounds cannot be granted.

7. The learned counsel for the applicant pleaded that the accommodation in possession of the applicant should be allowed to be occupied by her on normal rent till such time the applicant is provided with compassionate appointment. The

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following citations were relied upon:

(i) Asha Devi Srivastava Vs. UOI
ATR 1992 (2) CAT 22

(ii) Mithlesh Kumari Vs. Director of
Training & Anr. - O.A.No.770/92
decided by Principal Bench on
30-7-93.

(iii) Murari Lal & Ors. Vs. UOI (ATR 1992
(2) CAT 294).

In the above cases the representations of the respective applicants for compassionate appointment were either not finally disposed of or had been rejected. The Tribunal ordered reconsideration of their cases. These are all cases relating to employees of Government of India Press and at the time of disposal of these cases, the Scheme for compassionate appointment had not been evolved by the respondents. In the circumstances, the respondents were directed to allow the applicants to retain the accommodation on normal licence fee pending decision with regard to compassionate appointment. Only in one case namely that of Murari Lal & Ors. it has been stated that till a Scheme is prepared and the applicants are appointed on suitable posts, respondents were directed to allow the applicants to continue in the government accommodation subject to the liability to pay the licence fee in accordance with the relevant rules.

8. The learned counsel for the respondents argued that the background to the orders in the above citations was different. No scheme for compassionate appointment had been prepared by them. If the families are allowed to retain the house on the death of employees for indefinite

periods, the working eligible employees cannot be accommodated and this would not be in public interest. It was also mentioned that rules for retention of accommodation on the death of an employee have been considerably liberalised recently and in the present case before the Tribunal, the applicant had been allowed to retain accommodation for a period of 12 months on normal licence fee from the date of death of the applicant's husband and for a further period of another four months on double the normal fee on market rent. The damage rent is being charged only for the period of ^{before the} ~~of~~ a total of 16 months from the date of death.

9. The citations quoted cannot be said to lay down any law. Special considerations have been shown in the background prevalent at that time. Rules regarding retention of accommodation which have a statutory force have not been struck down. It would be relevant to refer to the observations of their Lordships of the Supreme Court in LIC Vs. Mrs. Asha Ramachandra Ambedkar (referred in para 5 above) that the courts are to administer law as they find, however, inconvenient it may be. In the circumstances, I do not find any reason for interfering in this case.

10. The D.A. is dismissed. Interim order if any, stands vacated. No costs.

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