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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.874 of 2000
M.A.No.1137/2000

New Delhi, this the 24th day of January, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

- 1.Himmat Singh
s/o late Shri Diwan Singh
r/o House No.4, Block No.74
Sector-1, Pushp Vihar
New Delhi-110017
- 2.Ms.Kaushalaya Devi
w/o late Shri Diwan Singh
r/o House No.4, Block No.74
Sector-1, Pushp Vihar
New Delhi-110017

- APPLICANTS

(By Advocate: Shri Kulbir Parashar)

Versus

1. Union of India
through the Secretary
Ministry of Defence
South Block,
New Delhi-110011.
2. Jt.Secretary (Trg) & CAO
Ministry of Defence
C-2 Hutments, Dalhousie Road
New Delhi-110011
3. Directorate of Estates
Through the Office of
The Director of Estates
Maulana Azad Road
Nirman Bhawan,
New Delhi-110011

-RESPONDENTS

(By Advocate: Shri S.M.Arif for respondents 1&2
Shri Rajeev Bansal for respondent 3)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

In this O.A., the applicants have prayed for quashing of the order dated 27.7.99 (Annexure A-1) vide which prayer of applicants for appointment of applicant No.1 on compassionate grounds had been rejected.

2. Facts in brief are that applicant no.1 is the son of late Shri Diwan Singh who had expired on 19.1.99

in harness while he was working under respondents. As per the Scheme of Government, applicant no.2 applied for appointment of applicant no.1 on compassionate grounds vide her application dated 27.1.99 stating therein that the deceased had four family members, one son was employed in a private concern and was married and living separately. All others were unemployed and were in indigent condition. Therefore, the applicants have prayed that respondents be directed to examine the case of applicant no.1 for compassionate appointment by considering the facts and circumstances of the case.

3. Representation for appointment of applicant no.1 on compassionate grounds, was rejected vide impugned order dated 27.7.99 (Annexure A-1). While rejecting his prayer, the department has taken the stand that as per the instructions of the Govt. of India, for providing such employment on compassionate grounds, the amount of family pension, gratuity, group insurance, moveable and immovable property and financial position of the family are kept in view. In view of the instructions of the Government, the department had rejected the prayer of the applicant for appointment on compassionate grounds.

4. In their counter reply, the respondents have mentioned the following three grounds to support the impugned order for rejecting the case of the applicants for compassionate appointment:

- "(a) the eldest son of the deceased viz., Shri Jagat Singh was employed;
- (b) the family of the deceased was in receipt of a sum of Rs.6.3 lakhs as terminal benefits and a monthly pension of Rs.1808/-; and

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- (c) the overall condition of the family of the deceased was not indigent as to merit appointment on compassionate grounds to the applicant No.1."

5. I have heard learned counsel for the parties and gone through the records.

6. Learned counsel for the applicants submitted that while assessing the financial status of the family members of the deceased, the department could not have considered the retiral benefits given to them after the death of the deceased employee. In support of his contention, he referred to a judgement reported in 2000 (4) Scale 670, Balbir Kaur & anr. vs. Steel Authority of India Ltd. & ors., relevant portion of which reads as under:

"Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family. This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events."

7. As regards employment of the eldest son of the deceased, learned counsel for the applicants submitted that while submitting the application for appointment on compassionate grounds, applicant no.2 had specifically mentioned that her eldest son Shri Jagat Singh was employed in a private firm and getting Rs.3000/- per month as salary. Besides, she had also mentioned in her

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application that he was living separately, having his own family and was not giving any financial assistance to the other family members of the deceased employee.

8. To counter the arguments of the applicants' counsel, learned counsel for the respondents Shri Arif submitted that the case of the applicants had been considered in accordance with rules and instructions on the subject and that the applicant no.2 had not informed that her eldest son was employed and was living separately. Therefore, it is not open to the applicants to raise this plea at this stage.


9. It appears from the pleadings available on record that the respondents, while considering the case of applicant no.1 for compassionate appointment, had taken into consideration the terminal benefits given to the family members of the deceased employee and that the eldest son of the deceased employee was a family member of the applicants. However, as per the observations of the Hon'ble Supreme Court in the case of Balbir Kaur (supra), quoted above, the retiral benefits given to the family members of the deceased employee could not be equated with the benefit of compassionate appointment as the same had been given to them to comply with the mandate of statute, after the early death of the employee.

10. Under these circumstances, I am of the opinion that the impugned order rejecting the prayer of the applicants for appointment on compassionate grounds cannot be sustained as the respondents while considering

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the case of applicant no.1 for compassionate appointment, had taken into consideration the terminal benefits given to the family members of the deceased employee and that the eldest son of the deceased employee who was in fact living separately with his family, was considered to be a family member of the applicants. The impugned order is, therefore, quashed and the O.A. is allowed to the extent that respondents shall consider the case of applicant no.1 for compassionate appointment within a period of three months from the date of receipt of a copy of this order, as per the instructions on the subject and in accordance with the observations of the Hon'ble Supreme Court in the case of Balbir Kaur vs. SAIL (supra). No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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