

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI

OA NO. 1679/89

DATE OF DECISION: 16.2.1990

SMT. KEWALI & SHRI SUKHBIR

APPLICANT

SHRI V.P. SHARMA

ADVOCATE FOR THE APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

MRS. RAJ KUMARI CHOPRA

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal *No*

J U D G E M E N T

(Of the Bench delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A)

This application has been jointly filed by Smt. Kewali, widow of late Shri Mool Chand and Shri Sukhbir, S/o Late Shri Mool Chand against the order of the respondents dated 13.7.1989 Annexure A-I, (Page 12 of the paper book) advising that the case of Shri Sukhbir does not merit consideration for appointment on compassionate ground. Although the case was admitted vide our orders dated 19.9.1989 but at the request of Ld. Counsel of both

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the parties the case was listed for hearing on 1.2.1990.

2. The facts of the case briefly are that Late Shri Mool Chand was working in the Ordnance Factory, Muradnagar when he died in harness on 10.5.1989. He was a permanent employee and belonged to the Scheduled Castes. The deceased is survived by three sons, including Shri Sukhbir, applicant No.2. All the three sons are major and are married. The two elder sons are stated to be unemployed while the youngest son is undergoing training of ITI. The applicants have stated that the family is in financial distress and therefore merits employment on compassionate ground. It has been further stated that applicant No.1 is suffering from TB and that she is undergoing treatment which has placed the family in straitened condition.. The applicants have also quoted a couple of cases in the application where compassionate employment in similar circumstances has been provided by the respondents. They have, therefore, requested that the respondents be directed to give applicant No. 2, Shri Sukhbir employment on compassionate ground. As interim relief it was requested that the applicant No.2 may be engaged as a casual labour till disposal of this O.A.

3. While admitting the application on 19.9.1989 this Bench had observed :

"We are not required to pass an order to that effect (engagement on daily wage basis) but we hope that the respondents will consider the case of the applicant for appointment on daily wage basis sympathetically."

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4. The respondents in their counter have stated that Late Shri Mool Chand was appointed on 3.12.1962 and was due for superannuation on 30.1.2001. He died on 10.5.1989. On receipt of the application dated 5.6.1989 of the widow for employment on compassionate ground of her son, Shri Sukhbir, the requisite proforma was sent for furnishing requisite information Annexure R-I, (Pages 42 & 43). The elder two sons of the deceased aged 27 and 26 years working with the contractors and the younger one is under training at CL Sahibabad. All of them are married. Apart from the fact that the married sons cannot be called dependent members of the family, it has been brought out that the widow has been paid the following terminal benefits:

i)	DCRG	Rs. 25,725.00
ii)	G.P. Fund Amount	Rs. 23,625.00
iii)	CEGIS	Rs. 21,197.00
iv)	Leave Encashment	Rs. 309.00
v)	DBF	Rs. 1,500.00

		Rs. 72,356.00
		=====

Besides she has been sanctioned family peansion at Rs. 525/- per month + appropriate dearness allowance per month (presently stated to be 34%). Thus the family pension amounts to Rs. 704/- per month. The respondents, therefore, have inferred that the widow has no liability as all the three sons are major and married. The case of the applicant, is therefore not covered

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under the Department of Personnel & Training's OM dated 30.6.1987 Annexure A-13 , (page 27 of the paper book), as appointment on compassionate -ground are made only in cases where the family is in immediate need of assistance having been left in indigent circumstances and in financial distress.

5. In the course of the hearing the Ld. Counsel for the applicant laid great stress on the illness of the widow resulting in the depletion of the lumpsum terminal benefits received by her and the consequent request for providing her son Shri Sukhbir a regular source of earning on compassionate grounds to alleviate the hardship of the family.. The Ld. Counsel for the applicant has placed reliance on the following judicial pronouncements in support of the case:-

- (a) 1989 (ii) ATC-803 - Sunder Lal Gupta Vs. General Manager, Gun Carriage factory, Jabalpur (CAT, Jabalpur);
- (b) All India SLJ 1989 (33)-22 - Smt. Vidya Devi Vs. UOI (CAT, Chandigarh);
- (c) All India SLJ 1989 (33) 546 & 547 - Smt. Deoki Bai Vs. UOI (CAT, Jabalpur).
- (d) ATR 1989(2) SC 659 - Smt. Sushma Gosain and Others Vs. UOI.

We observe that the cases cited by the Ld. Counsel are clearly distinguishable and are not comparable. The decision referred to at (a) above deals with a case of compassionate appointment of an

invalidated employee's son.

In the case at (b) above the matter deals with compassionate appointment of the widow who had minor children and thus had heavy liability to bring them up.

The matter at (c) above relates to rejection of the request for compassionate employment as the applicant's husband had been removed from service when he died.

The facts and circumstances of the case at (d) are also not comparable with the case under discussion. Here the Supreme Court was considering the matter where the respondents kept the widow of the deceased employee unjustifiably waiting for appointment on compassionate ground after she had cleared the screening test in 1983 for the post of LDC till 1985 when the Government imposed a ban on appointment of women in the Directorate General, Border Roads Organisation. The Hon'ble Supreme Court, therefore held that the denial of appointment in that case was "patently arbitrary" and cannot be supported.


The Ld. Counsel for the respondents stated that the applicant was in receipt of terminal benefits amounting to Rs. 72,000 and a family pension of Rs. 525/- + 34% dearness allowance at the current rate. The Ld. Counsel further contended that the sons of the deceased employees were major and married and that they did not constitute dependants for the purpose of relief prayed for by the applicant. It was further stressed that

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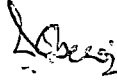
employment on compassionate ground was to meet the immediate needs of dependants of the employees who die in harness and leave families in utter financial distress and indigent circumstances. The present is not the case which merits such consideration and that there was no pressing ground for the Tribunal to review the decision of the respondents.

7. We observe that a case with more or less identical circumstances was decided by this Tribunal vide judgement delivered on 18.9.1989 in OA No. 1681/89. In this case the widow had received a lumpsum payment of a little over Rs. 62,000 plus family pension of Rs. 490/- + DA. The Ld. Counsel for the applicant had also pointed out that the widow of the deceased employee was in ill health. The Tribunal had not considered it a fit case to review the decision of the respondents rejecting the request for employment on compassionate grounds.

8. We have considered the rival arguments and having regard to the facts of the case we do not consider that this is an appropriate case meriting intervention and review of the decision of the respondents in not providing employment on compassionate grounds, keeping in view the guidelines prescribed by the Department of Personnel & Training's OM dated 30.6.1987. The application, therefore, fails with no orders as to the costs.


(I.K. Rasgotra)
Member (A)

16/2/90


(T.S. Oberoi)
Member (J)