

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1681/89
T.A. No.

1989

DATE OF DECISION 19.9.1989

Smt. Tejo & Another Applicant (s)

Shri V.P. Sharma Advocate for the Applicant (s)

Versus
Union of India & Ors. Respondent (s).

Smt. Raj Kumari Chopra Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. S.P. Mukerji, Vice-Chairman (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble Shri P.K. Kartha)

This is a case relating to non-appointment on compassionate ground in which the first applicant, Smt. Tejo, is the widow of late Shri Chiranji Lal, an employee of the Ordnance Factory, Muradnagar and the second applicant is her second son. They have jointly filed this application under Section 19 of the Administrative Tribunals Act, 1985, being aggrieved by the order of the respondents dated 20.2.1989, whereby the request for employment assistance to the eldest son of the deceased employee was not agreed to on the ground that the widow has no liability on account of dependents, etc. Another grievance of the applicants is regarding the proceedings taken by the Estate Officer for/eviction from the Government accommodation which was allotted to

the deceased Government servant and in which they continue to reside after his death.

2. The pleadings in the case, which was filed in the Tribunal on 23.8.1989, are complete and the matter was listed for admission and interim relief on 13.9.1989. We have gone through the records carefully and have heard the learned counsel for both the parties. We are of the view that the application could be disposed of at the admission stage itself.

3. The undisputed facts are that the deceased employee died in harness on 31.5.1988, after serving the Ordnance Factory at Muradnagar for nearly 27 years. His date of superannuation is 30.6.1995. He has left behind his widow, two married daughters and two sons. The respondents have paid the widow a sum of Rs.62,819.00 towards the terminal benefits, in addition to family pension of Rs.490 plus dearness allowance on the amount, payable each month. According to the instructions issued by the Government, a son or daughter or near relative of a Government servant who dies in harness, "leaving his family in immediate need of assistance", when there is no other earning member in the family, is eligible for compassionate appointment to a Group 'C' or Group 'D' post (Vide G.I. Deptt. of Personnel & Training O.M. No. 14014/6/86-Estt.(D) dated 30.6.87). Applicant No.1 requested the respondents for compassionate appointment of her first son, vide application dated 18.8.1988. By letter dated 20.8.1988, the respondents asked applicant No.1 to furnish the relevant particulars in the prescribed proforma for verification of the pecuniary circumstances. This was done. Her request was not acceded to. She even

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wrote to the Prime Minister on 14.6.1989 in this regard.

4. The case of the applicants in short is that there is no earning member in the family and that the family is in immediate need of assistance. Applicant No.1 is of 50 years of age and is suffering from ill-health. Her two sons who are married, are unemployed. Her two daughters are married. The deceased employee did not own a house or landed property. So is the case of the applicants. The two sons are working as ordinary labourers off and on and are dependent on their mother. The respondents have appointed many dependants on the death of other employees in harness but have not acceded to the request of the applicants. This is alleged to be discriminatory and violative of Articles 14 and 16 of the Constitution.

5. The case of the respondents is that the impugned order dated 20.2.1989 was passed in accordance with the relevant instructions regarding compassionate appointments and that the applicants have no right to retain the Government accommodation for ever. On the receipt of the application in the prescribed form, the pecuniary condition of the family was got examined from the Labour Officer of the Factory where the deceased employee had worked. After careful consideration of the case, it was found that the widow has no liability as both the daughters were married and both the sons were employed with contractors and were married. She has got a lumpsum amount by way of terminal benefits and family pension which was considered sufficient for her maintenance, having regard to her social status. As regards the alleged discrimination and violation of Articles 14 and 16 of the Constitution, they have contended

that each case is dealt with on its own merits and that the allegation has not been substantiated.

6. The question arises whether this is a fit case in which a direction may be issued to the respondents as prayed for in the application. The learned counsel of the applicants stated at the Bar that the applicants do not belong to the Scheduled Caste/Scheduled Tribe community, though an averment that they belong to the Scheduled Caste community, has wrongly been made in Ground (e) of the application (vide para.5, p.9 of the paper-book). The applicants have not alleged any bias or mala fides on the part of the respondents. The case of the applicants was duly considered by the respondents and was rejected by them after verifying the financial circumstances of the family as envisaged in the O.M. dated 30.6.1987. We find force in the contention of the learned counsel for the respondents that if the lump sum amount received by the widow is deposited in fixed deposits, she would receive a fair amount by way of interest every month, apart from her family pension. It is true that her sons are not regularly employed but they are working as ordinary labourers. Their names have been registered with the Employment Exchange. If any vacancy exists in any Group 'D' posts in the Ordnance Factory at Muradnagar, we hope that the respondents will consider appointing them, if they apply for the same and they are found suitable for appointment. The fact that the widow has no landed property or house of her own by itself is not a relevant factor to give compassionate appointment in terms of O.M. dated 30.6.1987.

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7. The learned counsel for the applicants have relied on the recent decisions of the Supreme Court in Smt. Sushma Gosain & Others Vs. Union of India & Ors. (Civil Appeal No.3642 of 1989 decided on 25.8.1989).

The facts of that case are clearly distinguishable. In that case, the respondents did not appoint the widow of the deceased employee on compassionate grounds on the plea that there was a ban on appointment of ladies in the Department of Director General Border Road. The respondents had, however, stated that if she nominated a male member of her family, he could be considered for appointment. She had only a minor son. The Supreme Court observed that denial of appointment to her was arbitrary as the ban on appointment of ladies was imposed two years after she had been found fit for appointment as Lower Division Clerk. The Supreme Court deprecated the delay on the part of the respondents and directed that she be appointed in the post to which she had already qualified.

8. In the instant case, the respondents have considered the case of the applicants in the light of the O.M. dated 30.6.1987. It will not be appropriate to review the decision taken by them after due consideration of all the relevant factors, in the absence of any mala fides alleged and proved (see also Kunhi Krishna Kurup Vs. G.M. Telecommunications, Kerala, SLJ 1989 (1) CAT 127). We do not, therefore, see any merit in the application and the same is dismissed at the admission stage.

9. In view of the above finding, the applicants cannot also succeed in regard to the prayer for retention of the

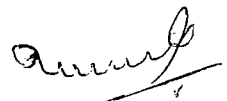
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Government accommodation. The learned counsel for the respondents stated on instructions that the applicants have not been physically evicted from the Government quarter as on 13.9.1989. In the circumstances, we direct that the applicants shall not be physically dispossessed of the present accommodation until 15.12.89, during which period they may make alternative arrangements for their accommodation.

10. The parties will bear their own costs.



(S.P. Mukerji)
Vice-Chairman(A)



(P.K. Kartha)
Vice-Chairman(Judl.)