

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. OA-2020 of 1989

Date of decision: 17.8.1990

1. Smt. Raj Rani Kapoor  
W/o Late Shri Sardari Lal Kapoor &
2. Subhash Chander,  
S/o Late Shri sardari Lal Kapoor.

.....  
Applicants

Vs.

1. The Director of Printing, Govt. of India,  
'B Wing, Nirman Bhawan, New Delhi, and
2. The Asstt. Manager (Admn.), Govt. of India Press,  
Minto Road, New Delhi. ....

.....  
Respondents

PRESENT

Shri Narinder Pal, counsel for the applicant.

Mrs. Raj Kumari Chopra, counsel for the respondents.

CORAM

Hon'ble Shri Justice Amitav Banerji, Chairman.

Hon'ble Shri B.C. Mathur, Vice-Chairman.

This application has been filed by Smt. Raj Rani Kapoor and Shri Subhash Chander, wife and son respectively of the deceased Shri Sardari Lal Kapoor, under Section 19 of the Administrative Tribunals Act, 1985 against Memo No. DPF/E.I/1154/89 dated 2.5.89 of the Govt. of India Press, and Memo No. 26/39/88-A-III dated 26.5.1989 against not acceding to their request for employment of Applicant No. 2 on compassionate grounds.

2. Brief facts of the case are that the late Shri Sardari Lal Kapoor, husband and father of Applicant Nos. 1 and 2 respectively, who was working in the Government of India Press, died in harness on 12.11.1987 without leaving behind any movable or immovable property. Since due to the premature death of the

deceased Govt. employee, the family became indigent and was in distress, the applicants applied to Respondent No. 1 on 4.12.87 for employment of Applicant No. 2 on compassionate grounds as a Copy Holder/Lower Division Clerk or against any other suitable job. Respondent No. 2 vide his letter dated 11.4.88 (Annex. A-5 to the applicant) asked Applicant No. 1 to advise her son to report to his office on 15.4.88 alongwith all the original certificates etc. for adjudging his suitability for the post applied for which the Applicant No. 2 did. The applicant did not hear until she approached the Hon'ble Prime Minister of India and the respondents vide their Memos dated 2.5.89 and 26.5.89 (Annex. A1 and A2 to the application) informed her that her request had been considered, but regretted that the same could not be acceded to. In the grounds for relief it has been urged that since the request for employment on compassionate grounds has been rejected without assigning any reason, it is illegal, malafide, baseless and arbitrary and liable to be quashed. The applicant is legally entitled to employment of her son on compassionate grounds on the basis of Department of Personnel & Training's O.M. dated 30.6.87 (Annex. A-6 to the application). She has cited the case of Mrs. Sushma Gosain Vs. Union of India (Annex. A-7) where the Court had held that in all claims for appointment on compassionate grounds there should not be any delay in appointment by the Government authorities and that the purpose of providing appointment on compassionate grounds is to mitigate the hardship due to death of the bread earner in the family and should therefore be provided/immediately to redeem the family in distress. The applicant has prayed to direct the respondents to employ Applicant No. 2 on compassionate grounds on a suitable job under Respondent No. 2.

3. The respondents in their counter have stated that deceased Shri Sardari Lal left behind his wife and his married son, Shri Subhash Chander, whose own family consists of wife and two daughters, aged 13 years and 3 years in December, 1987. Smt.

Raj Rani got about Rs. 67,000/- as terminal benefits and is also getting a family pension of Rs. 713/- p.m. Applicant No. 2 for whom she is seeking employment on compassionate grounds was born on 27.10.1954 and the prescribed age limit for employment to the post of L.D.C. is 18-25 years and for Copy Holder 18-30 and is very much over aged. The Directorate of Printing had considered the case of the applicant but due to modernisation of the Govt. of India Press, the number of posts in the Press had to be reduced from 2585 to 1072 which resulted in reduction of posts of LDCs from 121 to 54 and of Copy Holders from 123 to 100. Moreover, the case of Applicant No. 2 is very weak because he was married long ago and is having grown up children and is very much over aged. Thus even on merit, applicant No. 2 has no case for employment on compassionate grounds. The case is not covered by the Department of Personnel's O.M. dated 30.6.1987 because compassionate employment can be made only against direct recruitment quota and the applicant should be eligible for employment under the relevant provisions of the Recruitment Rules. There is no direct recruitment quota because the Press is already over staffed and Applicant NO. 2 also does not fulfil the provisions of the Recruitment Rules.

4. In the rejoinder, the applicant has stated that according to the Ministry of Personnel's O.M. dated 30.6.87, compassionate appointments are made in relaxation of the age limit wherever necessary and the respondents are bound to relax the age limit in the case of Applicant No. 2. It has also been stated that appointment on compassionate ground has not been denied because of reduction in posts from 2585 to 1072 as the respondents had advertised for filling 38 vacancies for Key Board Operators and one Mrs. Rajesh has also been employed as L.D.C. The learned counsel for the applicant quoted from the Supreme Court judgment in **Sushma Gosain vs. Union of India - 1989 AIR S.C. 1976** - that "if there is no suitable post, a suitable supernumerary post can be created to accommodate the applicant."

5. Mrs. Raj Kumari Chopra, learned counsel for the respondents said that Sushma Gosain's case was not relevant as Smt. Sushma Gosain, the widow in that case had been kept waiting for compassionate employment after she had been cleared in the screening test in 1983 for the post of an L.D.C. and later denied the appointment in 1985. She said that when due to modernisation/ the staff of the Press strength has been reduced nearly to half, it would not be in public interest to provide an additional member even on compassionate grounds. She said that the applicant had no legal right. She had received Rs. 67,000/- as terminal benefits and was getting in addition a monthly pension of Rs. 713/-. She also quoted the case of **Smt. Hoshiari and another vs. Union of India** decided by the Principal Bench of the Tribunal on 21.5.1990 in O.A. No. 85/90 where the Tribunal did not allow appointment on compassionate grounds on the grounds that the widow of the deceased had already received terminal benefits amounting to a little over Rs. 50,000/- plus a family pension of Rs. 890/- per month. The case of Smt. Sushma Gosain (supra) was also considered in that case.

6. We have gone through the pleadings and given careful consideration to the arguments of the learned counsel on both sides. We find that Applicant No. 2/is to be provided employment on compassionate grounds who is a married person with two children and is aged about 34 years and it cannot be said that at this age he would have been fully dependent on his late father. The issue is to ensure that the widow Smt. Raj Rani Kapoor does not suffer under indigent circumstances. We notice that she is already getting a pension of Rs. 713/- p.m. and also received terminal benefits amounting to Rs. 67,000/-. In the meantime there would have been some further relief on pension. But even if this amount is invested properly, the monthly income of the widow should be about Rs. 1400/-. In these circumstances, we do not consider it fit to use our discretionary jurisdiction under Article 226 of

the Constitution to compel the respondents to provide employment to Applicant No. 2, specially when there is already over-staffing in the Government Press. In the circumstances, we are not inclined to provide any relief to the applicants and the application is dismissed. There will be no orders as to cost.

*B.C. Mathur*  
17.8.90  
(B.C. MATHUR)  
Vice-Chairman

*AB*  
(AMITAV BANERJI)  
Chairman