

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

9

O.A. No. 2080/89
T.A. No.

199

DATE OF DECISION 4.1.1991.

Smt. Angeeri Devi & Anr.

Petitioner

Shri V.P. Sharma and Shri A.K. Bhardwaj
Advocate for the Petitioner(s) Applicant

Versus

Union of India through
Secy., Miny. of Defence & Ors.

Respondent

Smt. Raj Kumari Chopra

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

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. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Administrative Member)

The first applicant is the widow of late Shri Duli Chand who had worked as a Coremaker in the Ordnance Factory, Muradnagar, under the respondents. Shri Duli Chand died in harness on 6.8.1971. Applicant No.2 is the eldest son of late Shri Duli Chand. The family of the deceased Government servant consisted of his wife and two sons.

2. The widow was receiving her monthly pension and at the time of the death of her husband. Her two children were minors. The widow is also an illiterate lady. She waited for her sons to become majors for making a request

to the respondents to appoint the eldest/one on compassionate grounds against a suitable post. When the eldest son became 17 years old, the widow approached the respondents by her representation dated 29.7.1980 for such appointment. The respondents, however, did not accede to her request on the ground that the request had been received by them at a late stage. Thereafter, she made several representations to various authorities, but in vain.

3. The relief sought by the applicants is that the respondents be directed to consider the case of applicant No.2 for appointment on compassionate grounds against a Class IV post or any other suitable post as the family of the applicants is in distress.

4. The respondents have stated in their counter-affidavit that the application is barred by limitation. They have further stated that the deceased Government servant had joined the Government service in 1962 and was due to retire on attaining the age of superannuation in 1999. Unfortunately, he expired in 1978 after rendering 9 years' service. She applied for appointment of her son on compassionate grounds after a lapse of about 9 years. Her request was turned down by the various authorities

after^a/careful consideration. They have stated that the indigent circumstances of the family of the deceased Government servant were got verified through the Labour Officer of the factory in which he had worked. According to the verification report submitted by him, the family was having a house, some land for cultivation and the terminal benefits, including pension as admissible at that time. According to them, the fact that the family had been able to manage somehow all these years indicates that it had some dependable means of subsistence.

5. We have gone through the records of the case carefully and have considered the rival contentions. The learned counsel for the applicant relied upon the decision of the Supreme Court in Smt. Sushma ^{Gobain} ~~Gobain~~ & Others Vs. Union of India & Others, J.T. 1989 (3) S.C. 570 and the following observation made by the Supreme Court in the said judgement:-

"The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner for the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant."

6. The learned counsel for the respondents argued that the decision of the Supreme Court is distinguishable.

According to her, the appointment on compassionate grounds is regulated by the Administrative Instructions issued by the Department of Personnel on 30th June, 1987 which provide, inter alia, that such appointment is to be made when a Government servant dies in harness, leaving his family in immediate need of assistance. In the instant case, it was argued that the family of the deceased Government servant was not in immediate need of assistance and the request for appointment on compassionate grounds has been made after a lapse of nearly 9 years from the date of the death of the Government servant.

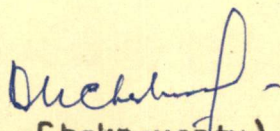
7. In our opinion, the delay involved has been satisfactorily explained by the applicants. In her petition addressed to the President of India, ^{in December 1987, 2} applicant No.1 has stated that immediately after the expiry of her husband, she "approached the local management of Ordnance Factory, Muradnagar for employment assistance on compassionate grounds, but I was told that my sons were too young for service and no female were then being recruited in the factory. I was advised that when my son had reached higher age, I should approach for his employment and in the meanwhile I must wait for appropriate time." The two sons of the deceased Government servant were minors at the time of his death and the request for appointment on compassionate grounds was made immediately after the elder son attained the age of majority. The fact that the widow and her two children somehow managed to live during all these nine years, does not by itself justify rejection of the request for appointment on compassionate grounds. Likewise, the fact that the family is having a house and some land for cultivation and that the widow

has got the terminal benefits, including pension, is also not sufficient to hold that the request for appointment on compassionate grounds is not justified.

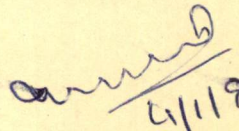
8. On a careful consideration of the rival contentions, we are of the opinion that this is a fit case in which the respondents should be directed to consider the case of the applicants for appointment on compassionate grounds even though the request has been made after a lapse of nine years from the date of the death of the Government servant. The respondents are directed to make a fresh enquiry into the financial circumstances of the family and in case it is found that the request is genuine, and that the family needs assistance, the respondents shall consider appointing applicant No.2 on compassionate grounds as a Labourer in the Ordnance Factory at Muradnagar, or in any other office under them where a vacancy exists.

9. The application is disposed of with the above directions. The respondents shall comply with the same within a period of three months from the date of receipt of this order.

There will be no order as to costs.


(D.K. Chakraverty)
Administrative Member

4-1-991


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