

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A.No. 641/89.

DATE OF DECISION 11.6.1993

<u>VIJAY SHANKAR YADAV</u>	<u>Petitioner</u>
<u>Shri B.S. Mainee</u>	<u>Advocate for the Petitioner(s)</u>
<u>Versus</u>	
<u>Union of India & Others</u>	<u>Respondent</u>
<u>None</u>	<u>Advocate for the Respondent(s)</u>

CORAM

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman (A)

The Hon'ble Mr. B.S. Hegde, Member (Judicial)

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. Whether it needs to be circulated to other Benches of the Tribunal ?

J U D G E M E N T

[Delivered by Hon'ble Shri B.S. Hegde, Member (Judicial)] 7

The applicant is the younger brother of late Shri Uma Shanker Yadav and son of Shri Chiragu Yadav and resident of Goshpur, Tehsil Mohamedabad, District Gazipur. The late Shri Uma Shanker Yadav was a regular Mazdoor in Telecommunication Department at Hodal under SDOT, New Delhi. He expired while in service on 28.2.1987. It is stated that he was un-married and



left no other dependent except the applicant. After the death of his brother, the applicant sought an appointment in the Government on compassionate grounds. He has also filed an affidavit sworn by other brothers and sisters alleging that the applicant is the only dependent of late Shri Uma Shanker Yadav and they have no objection if a job is given to the applicant on compassionate ground.

2. The case of the applicant is that he was living with his elder brother and was solely dependent on him. He is aggrieved by the order of the respondents dated 8.11.1988 and prayed for quashing the impugned order and to direct the respondents to appoint the applicant in Group 'D' posts on compassionate ground.

3. It is true that the respondents have not filed their counter affidavit/reply.

4. We have perused the contents of the application and also the reply of the respondents dated 8.11.1988 wherein it is clearly mentioned that in the D.P.C. held on 31.7.1988 the name of the applicant was considered for the post of regular mazdoor, New Delhi Sub-Division.

The authority came to notice that the late

Shri Uma Shanker Yadav was an unmarried person and left

behind three brothers and two sisters. The two sisters have already been married and one brother is employed and the other one is doing agriculture. Keeping in view of the circumstances in which he is placed, the respondents could not accede to his request in appointing him as Group 'D' employee. Accordingly, his request for compassionate appointment was rejected. Accordingly, the applicant has challenged the impugned order dated 8.11.1988 praying for quashing of the order and direct the respondents to appoint the applicant on compassionate ground. In this connection, the Learned Counsel for the applicant has cited various decisions in support of his contention that are being cited below :-

(1) [1989(3) AISLJ 23 - Smt. Vidya Devi vs. UOI &

Others wherein the issue involved was a widow and her three minor children having no source of income. Accordingly, the court held that liberal approach should be adopted to achieve the very purpose of the object underlying the policy of rendering immediate financial assistance to the indigent persons.

(2) [1990 ATLA (HC) 570 - BRIJITHAMMA vs. State was

of Kerala]. It / held that humane provisions

regarding giving employment to dependents of employees who die in harness must be implemented with the spirit in which they are conceived and must not be left as antiques on the mantelpiece. He also cited decision of the Principal Bench in Smt. Narain Devi vs. Director General of Works, CPWD, wherein the applicant was the widow of the deceased employee in the office of the Respondents and prayed that the respondents be directed to appoint her son as a Class IV employee on compassionate grounds etc.

5. All the aforesaid decisions are relating to either widows or the minor children. In the instant case, the applicant is a major. Even the deceased employee was a bachelor and was having three brothers and two sisters. Hence, appointment on compassionate grounds cannot be treated as a matter of right which depend upon many factors. The reply given by the respondents itself indicates that they have duly considered his application. However, considering the other aspects, they could not appoint him on compassionate grounds. *vs other similarly situated persons*

Further, except the assertion, there is nothing to show that he is entirely dependent on the deceased employee.

6. Keeping the aforesaid decisions in view, we are of the view, that though the respondents have not filed their counter reply, the reasons given in the impugned order dated 8.11.1988 are sufficient to dispose of this application and the applicant cannot claim the employment as a matter of right. As mentioned earlier, the Respondents shall have to consider various factors while appointing a person on compassionate grounds. In the circumstances, we are of the view, that there is no substance in this application and the same is required to be dismissed, and accordingly we dismiss this application but with no order as to costs.

B.S. Hegde
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MEMBER (J)

N.V. Krishnan
N.V. KRISHNAN
VICE-CHAIRMAN (A)