

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1571/90
T.A. No.

199

DATE OF DECISION 15.2.1991.

Smt. Gian Devi and Another ~~Petitioner~~ Applicant

Shri A.K. Behra ~~Advocate for the Petitioner(s)~~ Applicant

Versus
Union of India through the
Secy., Miny. of Defence & Anr. Respondent

Shri K.S. Dhingra, Sr. A.O. ~~Advocate for the Respondent(s)~~

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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? */*
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 applicant No.1 is the widow of the deceased Government servant who had worked as a Civilian Staff Officer in the Ministry of Defence. He died in harness on 29.3.1988. The applicant No.2 is the second son of the deceased Government servant. In this application filed by them jointly it has been prayed that the respondents be directed to provide applicant No.2 a suitable employment on compassionate grounds.

2. The deceased Government servant has left behind the following members, besides his widow:-

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(a) Shri Raj Pal son 28 years Unmarried

(b) Miss Kusumwati Daughter 23 years Unmarried
(c) Shri Sanjay Kumar son 20 years Unmarried
(d) Miss Santosh Kumari Daughter 17 years Unmarried.

3. The applicant has stated that the eldest son of the deceased, Shri Raj Pal, has been living separately from the family of the deceased, even before the death of the deceased Government servant. The second son of the deceased lives with the family of the deceased. He has also registered his name with the Directorate of Employment who have issued an identity card to him. He is a diploma holder in typewriting.

4. The applicants have stated that the deceased Government servant did not possess any ancestral property. The representations made to the respondents for appointment of applicant No.2 on compassionate grounds were rejected by the respondents.

5. The applicants have stated that the widow had to solemnise the marriages of her first son as well as her first daughter after the death of her husband and had to incur a liability to the tune of Rs.40,000/- which remains unpaid till date. Further, she has to incur recurring expenditure on account of her second son, who is doing B.A. at present, and second daughter, who is in the first year of M.B.B.S. in Maulana Azad Medical College. The applicants have stated that there are no earning members

in the family, and that to deny compassionate appointment to applicant No.2 is not only arbitrary but also harsh.

6. The respondents have stated in their counter-affidavit that after the demise of the husband of applicant No.1, the following terminal benefits were paid to the family of the deceased:-

(a) Death-cum-Retirement Gratuity.	Rs.88,505
(b) Central Govt. Employees Group Insurance Scheme (including contribution towards saving fund)	Rs.42,948
(c) General Provident Fund	Rs.22,948
(d) Deposit Linked Insurance Scheme	Rs.10,000
(e) Encashment of leave	Rs.19,471
Total:	<u>Rs.1,83,772</u>

7. In addition, the applicant No.1, wife of the deceased, has been sanctioned a family pension of Rs.1,142/- per month. She is also entitled to D.A. @ Rs.434/- per month. Thus, total amount payable to applicant No.1 works out to Rs.1,576/- per month.

8. The respondents have stated that applicant No.2 was called before a Board of Officers on 25.8.1988 to consider the case of his compassionate appointment. It transpired that the elder son of the deceased Government servant, namely, Shri Raj Pal, was already employed in a

private firm. Considering the family pension and terminal benefits received by the family after the death of the Government servant, the Board recommended that the family cannot be considered to be in indigent circumstances, particularly with one employed man.

9. We have carefully gone through the records of the case and have considered the rival contentions. The learned counsel for the applicant relied upon the following provisions contained in the Office Memorandum dated 30.6.1987 issued by the Department of Personnel & Training on the subject of compassionate appointment:-

"xxxxx xxxx xxxx xxxx xxxx

(e) In deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment, will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support to the other members of the family."

10. The learned counsel for the applicant also submitted that the eldest son of the deceased Government servant has been living separately from the family and that he would not support the family. Another circumstance brought to our notice is that the applicant belongs to the Scheduled Caste community. He relied upon the

decision of this Tribunal in Smt. Roshanara Begum Vs. Union of India, 1990 (3) C.A.T. 403/ In that case, the Tribunal had observed that the fact that the applicant was getting a family pension of Rs.470/- per month and that she had received some amounts towards retirement benefits, would not disentitle her from getting her son employed in the office of the respondents on compassionate grounds. Even if the applicant were to deposit the amounts received by her by way of retirement benefits in long-term fixed deposits, the interest accruing thereon would not provide her sufficient means of livelihood.

11. The retirement benefits and family pension received by the applicant in Smt. Roshanara Begum's case were as follows:-

"Provisional pension

Death-cum-retirement	Rs.2250/- on 3.11.87
gratuity + Rs.1500/-	Rs.11863/- only on 11.2.88
	Rs.2652/- only on 3.11.87

Provisional DGR Gratuity

Insurance Scheme Amount	Rs.10,000/- on 3.11.1987
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G.P.F. Final payment	@ Rs.8,437/- on 16.7.1987
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Family pension	@ Rs.470/- p.m. upto 10.3.1994
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Family pension	Rs.375/- p.m. after 10.3.94
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12. The facts and circumstances of the above mentioned case are clearly distinguishable.

13. The representative of the respondents relied upon the decision of this Tribunal in Smt. Tejo and Another Vs. Union of India, 1990 (12) A.T.C. 48 to which one of us (P.K. Kartha) was a party. In that case, the applicant had got a lump sum amount by way of terminal benefits and family pension which was considered sufficient for her maintenance, having regard to her social status. The Tribunal observed that if the lump sum amount received for the widow was deposited in fixed deposits, she would receive a fair amount by way of interest every month, apart from her family pension. The Tribunal noted that the names of the sons of the widow had been registered with the Employment Exchange. The Tribunal expressed the hope that if any vacancy existed in any Group 'D' post in the office of the respondents, they would consider appointing them if they apply for the same and they are found suitable for appointment.

14. In the instant case, the family cannot be said to be in indigent circumstances as the terminal benefits received by the family is to the tune of Rs.1,83,772, in addition to a family pension of Rs.1576/- per month. In case, the amount received by the family is deposited in fixed accounts, a fair amount by way of interest

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every month will be received by the family. We do not, therefore, consider that this is a deserving case in which a direction should be issued to the respondents to appoint the second son of the deceased Government servant on compassionate grounds. In view of the above, the application is devoid of any merit and the same is dismissed at the admission stage itself.

There will be no order as to costs.

Dubey 15/2/89,
(D.K. Chakravorty)

Administrative Member

Carma 15/2/89
(P.K. Kartha)
Vice-Chairman (Judl.)