

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No. DA-1918/90

Date of decision: 14.8.92

Shri Kheri Singh ..... Applicant

Versus

Union of India through ..... Respondents  
Secretary, Ministry of  
Defence & Others

For the Applicant ..... Shri S.S. Tiwari, Advocate

For the Respondents ..... Smt. Raj Kumari Choora, Advocate

CORAM:

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

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

**JUDGMENT**

(of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice Chairman(J))

We have gone through the records of the case and have heard the Learned counsel for both the parties. The applicants is the third son of late Shri Bharoli who had worked in the office of the respondents as Mason but had met with an accident while on duty and died on 27.6.1986. His request for appointing him on compassionate grounds has not been acceded to by the respondents on the grounds that his two elder brothers are earning members,

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that the condition of the family of the deceased Government servant is not placed in indigent circumstances, and that there is no vacancy in which he could be accommodated.

2. The learned counsel for the applicant stated at the Bar that the applicant is willing to work anywhere in India. According to him, the lack of vacancy is not a good ground for turning down the request of the applicant for appointment on compassionate grounds. He submitted that the applicant is an orphan and that his case is a deserving one.

3. We agree with the submission of the learned counsel for the applicant that the respondents cannot raise the plea of want of vacancy in such cases, in view of the decision of the Supreme Court in Smt. Sushma Gossain Vs. Union of India & Others, 1989 (4) SCC 468.

4. The question whether the case of an applicant for appointment on compassionate grounds is deserving or not, would depend on the facts and circumstances of each case. The learned counsel relied upon the judgement of this Tribunal dated 17.12.1991 in OA-46/88\*. In that case, the Tribunal noted that the deceased Government servant had left behind a large family and ~~that~~ the authorities concerned were satisfied about the hardship of the family. In this factual background, relief was

\* Dharampal Vs. Union of India through Secy., Ministry of Defence & Others.

given to the applicant notwithstanding the plea of the respondents that there was no vacancy to accommodate him.

5. In the instant case, the facts are somewhat different. The applicant has stated in the application about his minor younger brother who is solely dependent on him and that his younger brother is not receiving pension for non-production of legal guardianship certificate from the competent Court.

6. As against the above, the respondents have stated in their counter-affidavit that his two elder brothers are earning members of the family, that the applicant being the eldest son, was sanctioned family pension of Rs.505/- per month w.e.f. 28.6.1986 to 1.1.1989 and gratuity of Rs.16,165. The share of the minor son has not been released for want of guardianship certificate from a competent Court. According to <sup>them,</sup> the total amount of gratuity and other benefits worked out to Rs.50,000/- to be shared among the four brothers.

7. Confronted with the above version, the applicant has stated in his rejoinder affidavit that his two elder brothers are earning on daily wages and have refused to bear the expenses of the applicant and his younger brother

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and that the amount of gratuity is not sufficient for their livelihood for the rest of their lives.

8. In our considered opinion, this is not a fit case in which direction should be issued to the respondents to appoint the applicant on compassionate grounds. That would not, however, preclude the respondents from considering his case as labourer along with other candidates sponsored by the Employment Exchange and appointing him as such anywhere in India, depending on the availability of vacancies. The application is disposed of with the aforesaid observations. There will be no order as to costs.

*B.N. Dhondiyal*  
(B.N. Dhondiyal) 14/8/52  
Administrative Member

*P.K. Kartha*  
14/8/52  
(P.K. Kartha)  
Vice-Chairman (Judl.)