

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2218/90
T.A. No.

199

DATE OF DECISION 11.10.1991

Smt. Narain Devi & Another	x Petitioner Applicant
Shri D.R. Gupta and Shri O.P. Khokha	Advocate for the Petitioner(s)
Versus	
Dir. Gen. of Works, CPWD. & Ors.	Respondent
Shri P.P. Khurana	Advocate for the Respondent(s)

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

The Hon'ble Mr. B.N. Dhoundiyal, 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. P.K. Kartha, Vice-Chairman)

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The first applicant, who is the widow of late Shri Sri Kishan who was employed as a Farash in the office of the respondents, has prayed that the respondents be directed to appoint her son (applicant No.2) as a Class IV employee/Group 'D' employee on compassionate grounds in accordance with the rules even if there is no vacancy by creating a supernumerary post.

2. The application was filed in the Tribunal on 26.10.1990. On 29.10.1990, the Tribunal passed an

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interim order directing the respondents not to dispossess the applicant from Quarter No.1227, Sector 2, R.K. Puram, New Delhi, allotted to the late husband of applicant No.1. The interim order has been continued thereafter till the case was finally heard on 13.9.1991 and judgement reserved thereon.

3. The facts of the case in brief are as follows. The husband of applicant No.1 and father of applicant No.2, Shri Sri Kishan, who had been working as Farash in the office of the respondents, expired on 29.8.1989 leaving behind the family comprising of applicant No.1, applicant No.2 and a widowed daughter. Another son of the deceased Government servant, Satish Chand, is living separately.

4. Applicant No.1 submitted a representation to the respondents for employment of her son, Shri Tara Chand, applicant No.2 in this application, against one of the posts in Group 'D' in the office of the respondents on compassionate grounds as there is no earning member in the family to support it. The respondents rejected the above request of applicant No.1 without giving any reasons for the same.

5. The respondents have stated in their counter-affidavit that the name of applicant No.2 did not exist in the C.G.H.S. Card No.183518 as a son of late Shri Sri Kishan, that in the nomination under C.G.E. Group Insurance

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Scheme, 1980, submitted by the deceased Government servant on 5.12.1981, the age of the applicant No.2 is given as 30 years and of Shri Satish Chand, as 24 years, and that in the affidavit dated 30.1.1990 filed by applicant No.2 in connection with his appointment as Class IV employee, his age has been stated as 32 years, whereas his age, according to official record, comes to more than 38 years on the date of the affidavit. According to them, applicant No.2 had been living separately.

6. The respondents have also stated that applicant No.2 was not dependant on the deceased Government servant nor was he in indigent circumstances as he was running a farm in Fatehabad, District Agra (U.P.), as per the certificate submitted by applicant No.1 along with her application for employment of the applicant No.2 on compassionate grounds. They have also pointed out that a sum of Rs.50,972/- as per the details given below, had been paid to applicant No.1 in addition to the family pension of Rs.470/- plus relief per month, and that the same was considered to be quite sufficient for applicant No.1 to lead a normal life:-

D.C.R. Gratuity:	Rs.31,020.00
G.P. Fund	Rs. 8,104.00
Group Insurance	Rs.11,008.00
Leave Encashment	Rs. 840.00
Total:	Rs.50,972.00

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7. As regards applicant No.2, the respondents have further stated that he is unmarried with no liability and that he could very conveniently support his widowed mother on the farm run by him.

8. We have carefully gone through the records of the case and have considered the rival contentions. At the outset, it may be stated that it is not the case of the respondents that there is no vacancy against which the applicant No.2 can be appointed on compassionate grounds. In our opinion, the retirement benefits received by the widow cannot be said to be adequate for her and her unmarried son to lead a normal life. The deceased Government servant was a cancer patient. Applicants have stated in their rejoinder affidavit that the amount of pension is hardly adequate to meet the needs of the family and that the amount of gratuity, G.P. Fund, etc., which had been received, has already been consumed to meet the financial needs of the family which included repayment of loan liability of the deceased Government servant in connection with his treatment for cancer.

9. The main reason for the rejection by the respondents of the request for compassionate appointment is due to the circumstance that applicant No.2 was running a farm and that the family could survive on the earnings from the

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said farm. This has been refuted in the rejoinder affidavit, wherein it has been stated that the applicant was not running a farm. He was only a marginal farmer, as certified by the President of the Gram Panchayat in whose opinion, applicant No.2 was unable to make both ends meet from that source. The respondents have, however, treated as if the applicant is a landlord.

10. The discrepancies in the age of the applicant as given in the affidavit filed by him compared to the nomination made by the deceased Government servant, is not of much relevance in the present context. The deceased Government servant and the members of his family belong to the lowest strata of society.

11. In Smt. Phoolwati Vs. Union of India & Others, A.I.R. 1991 S.C. 469, the Supreme Court relied upon its earlier decision in Smt. Sushma Gossain Vs. Union of India, A.I.R. 1987, S.C. 1976, where it has been held as under:-

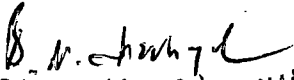
"It can be stated unequivocally that in all claims for appointment on compassionate ground, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread earner of the family. Such appointment should, 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".


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12. In view of the above, the Supreme Court directed the respondents to take immediate steps for employing the second son of the appellant who had died in harness in the Government of India Press, in a suitable post commensurate with his educational qualifications. The appellant was also permitted to stay in the Government quarter where she was residing with the members of her family.

13. In our opinion, the aforesaid considerations apply equally to the present case. We are of the view that the case of the applicant is a deserving one.

14. In the facts and circumstances of the case, we allow the application and direct the respondents to appoint Shri Tara Chand, the second son of the deceased Government servant, in a suitable post in their office on compassionate grounds. They should also relax the requirement of age, if necessary, for making such appointment. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. Till the applicant is so appointed, the respondents shall not dispossess him of the Government quarter No. 1227, Sector 2, R.K. Puram, New Delhi, and that ~~they~~ ^{he} shall be charged only the licence fee from the date of the death of the deceased Govt. servant. There will be no order as to costs.


(B.N. Dhoundiyal) 11/10/81
Administrative Member


(P.K. Kartha) 11/10/81
Vice-Chairman (Judl.)