

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-394/90

Date of decision: 3.7.1992.

Smt. Tejo & Another

.... Applicants

Versus

Union of India through
the Secy., Govt. of
India & Others

.... Respondents

For the Applicants

.... Shri V.P. Sharma, Counsel

For the Respondents

.... Smt. Raj Kumari Chopra, Counsel

CORAM:

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 Judgment? *yes*

2. To be referred to the Reporters or not? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

This is the second time that the applicants are before us praying for the same relief, namely, appointment of applicant No. 2, the son of Applicant No. 1, on compassionate grounds in a Group 'D' post. The applicants had filed OA-1681/89 seeking the same relief and it was disposed of by judgement dated 19.9.1989. The facts in the said O.A. as well as in the present O.A., are the same.

2. The undisputed facts are that the deceased employee (husband of Applicant No. 1) died in harness on 31.5.1988,

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after serving the Ordnance Factory at Muradnagar for nearly 27 years. He left behind his widow, two married daughters and two sons. The respondents have paid to the widow a sum of Rs. 62,819.00 towards the terminal benefits, in addition to family pension of Rs. 490/- plus dearness allowance on the above, payable each month. According to the instructions issued by the Government, a son or daughter or near relative of a Government servant who dies in harness, leaving his family in immediate need of assistance, when there is no other earning member in the family, is eligible for compassionate appointment to a Group 'C' or Group 'D' post. Applicant No.1 requested the respondents for compassionate appointment of her first son. The respondents asked her to furnish the relevant particulars in the prescribed form for verification of the pecuniary circumstances. This was done and thereafter, her request was not acceded to. The applicants had urged in OA-1681/89 that there was no earning member in the family and that the family was in immediate need of assistance. It was submitted that applicant No.1 was of 50 years of age and was suffering from ill-health. Her two daughters were married. The deceased employee did not own a house or a landed property. So was the case of the applicant. The two sons were working as ordinary labourers off and on and were dependents on their mother.

(Signature)

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3. After going through the records of the case carefully and hearing the learned counsel for both the parties, OA-1681/89 was disposed of by the Tribunal that ~~the~~ holding ~~the~~ applicants were not entitled to the relief sought by them. The Tribunal noted that on the receipt of the application in the prescribed form, the pecuniary condition of the family was got examined from the Labour Officer of the Factory where the deceased employee had worked. It was found that the widow had no liability as both the daughters were married and both the sons were employed with Contractors and were also married. She had got a lump sum amount by way of terminal benefits and family pension which was ~~sufficient~~ considered ~~as~~ sufficient for her maintenance, having regard to her social status. The Tribunal found force in the contention of the learned counsel for the respondents that if the lump sum amount received by the widow was deposited in fixed deposit, she would receive a fair amount by way of interest every month, apart from her family pension. The Tribunal, however, observed that though her sons were not regularly employed and were working as ordinary labourers, their names had been registered with the Employment Exchange. The Tribunal observed that "If any vacancy exists in any Group 'D' post in the Ordnance Factory at Muradnagar, we hope that the respondents would consider appointing them, if they apply for the same and they are found suitable for

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appointment. The fact that the widow has no landed property or house of her own, by itself is not a relevant factor to give compassionate appointment in terms of O.M. Dated 30.6.1987."

4. In view of the above finding, the Tribunal also held that the applicants were not entitled to retain the Government accommodation. They were, however, given time to vacate the same till 15.12.1989.

5. No fresh facts have been brought out in the present application except that vacancies had occurred in Group 'D' category but the applicant No.2 has not been appointed against one of them.

6. We have gone through the records of the case and have heard the learned counsel for both the parties.

The applicants ^{have} ~~had~~ stated in their rejoinder affidavit that at this stage the C.C.P. is not maintainable and that is why they has filed the present application. The respondents have stated that the application is barred by the principle of res judicata. They have also stated that the government quarter which was in the possession of the applicants, had been vacated by them on 29.12.1989.

7. After carefully considering the matter, we are of the opinion that no mandatory direction can be given to the respondents to appoint the applicant No.2 against any Group 'D' post which is stated to be lying vacant.

The Tribunal had expressed the hope in its earlier judgement dated 19.9.1989 that if any such vacancy exists, the respondents would consider appointing applicant No. 2 in accordance with the relevant rules.

The present application is disposed of reiterating the same view.

8. There will be no order as to costs.

B.N. Dholiwal
(B.N. Dholiwal) 3/7/92
Administrative Member

over
3/7/92
(P.K. Kartha)
Vice-Chairman (Judl.)