

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

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C.A. NO. 1383/91

DATE OF DECISION : 14.08.1992

Mrs. Kartaro Devi

...Applicant

Vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Sanjoev Madan

For the Respondents

...Shri B.K. Aggarwal

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

The applicant is widow of late Kanshi Ram, who was working as Luggage Porter, Ambala and died on 22.12.69 while in service. At the time of the death, the deceased left three sons-Devraj, Kuldeep and Rameshwar and the widow, applicant. The case of the applicant is that she is in indigent circumstances and she time and again approached the respondents to give compassionate appointment to one of her sons, Rameshwar. Her son has not been given any appointment. Ultimately the applicant sent a last representation on 1.1.1990, but no reply was received by her. Hence the present application has been filed on 5.6.1992.

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2. The respondents contested the application and stated that the widow/applicant did not apply for appointment of her first son within six months of attaining the age of maturity as her first son was minor at the time of the death of his father. Her third son Rameshwar applied on 12.5.1987 when he was 22 years old. Her first son, who attained majority in 1971 could have applied for compassionate appointment nor the applicant applied at that time in the year 1970-71, i.e., about two years after the death of the deceased employee. In view of this fact, the present application is barred by time. The difficulty of the respondents is that there is no service record available with them. Thus it is stated that the applicant is not entitled for any compassionate appointment of her son.

3. The applicant in her rejoinder stated that the applicant applied for appointment of her son in 1979. However, the respondents did not take any action on the said request.

4. I have heard the learned counsel of both the parties at length and have gone through the record of the case. The

learned counsel for the applicant wants appointment of the son of the applicant on the basis of the Railway Board's letter No.E(NG) III/78/RCI/1 dt. 30.4.1979. Clause-2 of this letter which is on the subject of appointment on compassionate grounds clearly lays down that where the widow of an employee cannot take up employment and the sons/daughters are minor, the case may be kept pending till the first son/daughter becomes major, i.e., attains the age of 18 years. Such cases should be kept pending only for 5 years after which the claim will lapse. However, the General Manager can relax the 5 years restriction. In the rejoinder, it is stated that the applicant applied in 1979 for the first time, i.e., ten years after the death of her husband and she did not apply for the appointment of any of her sons soon after the death of her husband, nor she applied when the eldest son of the applicant had become major. According to the respondents, in the year 1971, the eldest son of the applicant had reached the age of majority, but the applicant did not apply for appointment on compassionate ground of that son. It is for the first time that in 1987, her third son Rameshwar applied. The objection by the respondent

has some force. The record of the deceased is not available and further the compassionate appointment is given to rehabilitate the family of the deceased. The family has already been surviving for a number of years since 1969. According to the own averment of the applicant, she has not preferred for the employment of her two other sons who were elder to Rameshwar, who had already attained the age of 22 years when he applied for compassionate appointment. The conduct of the applicant, therefore, does not inspire confidence that she was in indigent circumstances and bonafide needs the compassionate appointment of one of her sons after the death of her husband.

5. The stale and belated claims, though may be genuine at one time, by passage of time they get defeated by subsequent events. The applicant has not given out the factual financial position of the family and has also not clearly stated about the maintenance of the whole family and whether her two other elder sons are looking after the family or not. The applicant had to discharge this burden to show that the applicant had no other source of income to maintain the family. On

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this account also, the application does not disclose true facts for a careful consideration even though it has been filed after 22 years of the death of the deceased employee.

6. There is another factor which cannot be ignored in this case that in the rejoinder, the applicant has stated that she had applied for compassionate appointment of one of her sons in December, 1979. She further stated that the respondents did not inform and the eldest son began to live separately. After 1979, there is no step taken by the applicant for the consideration of the second or third son for assistance in employment on compassionate ground. It was only in March, 1987 that she has applied for the appointment of Rameshwar, the third son. This conduct of the applicant also is not above board.

7. The respondents, however, have given fullest consideration to the application of Rameshwar and he was also interviewed by the DPC, but because of the hurdle of the administrative order from the Railway Board, the applicant's son could not be considered for compassionate appointment. There is also a dispute about the age of

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the applicant's son, Rameshwar and his age has been mentioned as 22 years while the applicant in the rejoinder stated that it was wrongly mentioned and Rameshwar is only 18 years of age.

3. Taking all these facts into account, I do not find that any case, is made out to give a direction to the respondents to give compassionate appointment to the son of the deceased. The application is, therefore, dismissed leaving the parties to bear their own costs.

*J. P. Sharma*  
14.8.52  
(J.P. SHARMA)  
MEMBER (J)

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