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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No. 50/91

.. Date of decision: 17-7-92

Sh. Bachan Lal Saxena .. Applicant

Sh. K.N. Bahuguna .. Counsel for the applicant

Versus

C.S.I.R. .. Respondents

Sh. A.K. Sikri .. Counsel for the respondents.

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

The Hon'ble Mr. B.N. Dhoundiyal, Member (A)

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

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.
Dhoundiyal, Member (A))

The issue raised in this OA relates to appointment on compassionate ground of the son of an employee, who had to retire prematurely on medical grounds. Applicant No.1, Shri Bachan Lal Saxena was employed as 'Helper B' with the Director, Central Road Research Institute, New Delhi and had rendered about 32 years of service till 18.6.1989, when an accident resulted in ^{his} ~~his~~ paralysis and permanent incapacitation. The applicant would have attained the age of superannuation (58 years) on 4.7.89 but had to retire prematurely. His wife and the son (applicant No.2) made a number of requests to the authorities for compassionate appointment. In Feb. 1990, the respondents sent a communication to the Medical Superintendent, Safdarjung Hospital for issuing a Disability Certificate to the applicant so that the possibility of giving compassionate

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appointment to his son may be explored. A certificate showing 75% disability was issued and an invalid pension was granted w.e.f. 20.4.1990. However, on 3.7.90, the respondents intimated that no compassionate appointment could be given to his son as this was not permissible under the rules. The applicant has prayed for issue of directions to the respondents to appoint^{to} his son on compassionate grounds.

2. The applicants are still in occupation of quarter No. B-34, CRBI Flats, Maharani Bagh, New Delhi under an interim order issued by this Tribunal on 8.1.91 and extended from time to time.

3. The respondents have stated that the applicant No.2 is not eligible for compassionate appointment as his father was over 57 years of age at the time of his retirement. They have also requested for vacation of stay order as the applicant cannot retain official accommodation beyond the period permissible after his retirement.

4. We have gone through the records and heard the learned counsel for the parties. The relevant instructions relating to compassionate appointment of the wards of retirees on medical grounds are reproduced below :-

"6. Government servants retired on medical grounds -

In exceptional cases when a Department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be extended to the son/daughter/near relative of Government servant retired on medical grounds under Rule 38 of the Central Civil Services (Pension) Rules, 1972.

Only such of the Government servants (other than Group 'D' Government Servants) who retire on medical grounds
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on or before attaining the age of 55 years are eligible for availing of the concession of appointment of their sons/daughters/near relatives on compassionate grounds. In the case of Group 'D' employees the benefit of compassionate appointment may be extended only when they are retiring on medical grounds before attaining the age of 57 years."

5. It is admitted that on the date of the accident, applicant No.1 was over 57 years of age and as such his wards were in-eligible for compassionate appointment.

6. ^{Sw} We, however, note the fact that looking after an invalid puts tremendous strain on the family and they have no other earning member. The retirement benefits received by the applicant No.1 are meagre and not substantial. The respondents have themselves indicated in their counter that the applicant could have made his request to Secretary, CSIR, Vice President, CSIR and President, CSIR. In that event, the competent authority to allow relaxation of rules, may have considered his case sympathetically.

7. We, therefore, direct that the applicant No.1 may make a fresh representation with a specific request to the competent authority to relax the rules relating to the age of the retiree within a period of one month from the date of receipt of this order. In case, he makes such a representation, the competent authority of the respondents shall consider the same sympathetically and pass appropriate orders within a period of two months thereafter. Till then, the applicants shall not be dispossessed from quarter No.8-34, CRRI Flats, Maharani Bagh, New Delhi subject to their liability to pay licence fee etc. in accordance with the relevant rules.

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The parties will bear their own costs.

B.N. Dhondiyal
(B.N. Dhondiyal)

Member (A)

P.K. Kartha
(P.K. Kartha)

Vice Chairman (J)