

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA No. 847/91

DATE OF DECISION: 5.7.1991

SHRI PREETAM SINGH

APPLICANT

VERSUS

UNION OF INDIA

RESPONDENTS

CORAM:

THE HON'BLE MR. A.V. HARIDASAN, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT SHRI D.R. GUPTA, COUNSEL

FOR THE RESPONDENTS SHRI M.L. VERMA, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

Shri Preetam Singh has filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order No. Q/Wel/851/21/86 dated 26th December, 1989 of the Ministry of External Affairs advising his mother Smt. Deveshwari that the matter of employment of her son on compassionate grounds has been carefully reexamined but it has not been found possible to accept her request.

2. The facts of the case briefly are that Shri Anand Singh, father of the applicant was employed as Daftary in the Ministry of External Affairs. He died on 15th July, 1980 while in service in the Indian High Commission at Dakha leaving behind his widow, 3 daughters and one son. The widow approached the Ministry of External Affairs for employment of her son Preetam Singh on compassionate grounds as there was no earning member in the family.

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The respondents informed her that "her son cannot be appointed at that stage as he is too young to be taken in Government service as the minimum age required is 18 years. Moreover he did not qualify for the post of Peon. The widow was advised to apply again as soon as her son passes the 8th Class and attains the required age." The applicant attained the age of 18 years in October, 1990 and also passed the Delhi Secondary School Examination held in July, 1990. The widow therefore approached the respondents to provide him a job commensurate with the qualifications of her son as Lower Division Clerk on compassionate grounds. The same, however, has been rejected. In support of his case the applicant has cited the decision of the Hon'ble Supreme Court in **Smt. Sushma Gosain & Ors. Vs. UOI & Ors. AIR 1989 SC 1976.**

3. The respondents in their written statement have submitted that the application has been filed at the belated stage after 11 years of the death of the father of the applicant. Secondly, the family cannot claim to be in need of immediate assistance after 11 years after the death of the Government servant. They also submit that the employment on compassionate ground is a discretionary matter and the courts do not like to interfere with the discretion allowed to the administration.

The learned counsel for the applicant submitted that the family of the applicant continues to be in indigent circumstances as one daughter of the Government servant is still minor and the applicant is without any job. The widow is receiving

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minimum pension at the rate of Rs. 375/- per month with dearness allowance at the rates prescribed from time to time. The death-cum-retirement gratuity received by the widow was only ^{about} Rs. 4000/- and that the retirement benefits received were not adequate to sustain the family.

5. The learned counsel for the respondents, Shri M.L. Verma submitted that the application is belated and therefore is barred by limitation under Section 20 and 21 of the Administrative Tribunals Act, 1985. The second point/ was that the applicant has no ^{legal} right for compassionate employment as it is purely discretionary. He further submitted that the application was considered in 1985-86 by the competent authority and therefore no judicial review is required at this stage. The learned counsel placed his reliance on **Tejo vs. UOI - 1990 (1) ATC PB 48.** This case is distinguishable from the case before us as the family of the deceased in Tejo Vs. UOI (supra) had received substantial benefits by way of terminal benefits and the two sons in the family were employed as labourers and the application had been rejected after due consideration taking all factors into account. The second case relied upon by the learned counsel for the respondent is **Anil Kumar Sen vs. UOI 1990(1) ATC 328.** This case is also not germane to the matter before us as the applicant was retired from service on medical grounds. He was also financially well off as not only he owned /immovable property but had also received substantial amount by way of retirement benefits.

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6. We have considered the rival contentions and perused the records carefully. We are of the view that the retirement benefits received by the widow of the deceased were not adequate to sustain the family, particularly when marriage of two elder daughters had been arranged by the widow with the money she had received. She is recipient of minimum pension and has a minor daughter who has to be educated and settled. The only son is seeking the compassionate employment.

While at the time the father passed away applicant was a minor and the application was rejected on that ground, "On his attaining majority and acquiring the required educational qualifications, he has not been considered for appointment on administrative reasons. The cause of action would arise only after the applicant had attained the age of 18 years. In the circumstances, the application cannot be deemed to be barred by limitation under Section 20 and 21 of the Administrative Tribunals Act.

appointment on compassionate grounds is a discretionary matter, any rejection of the request has to indicate that such orders have been passed after due application of mind. No such document has been produced before us that the request for compassionate appointment was disposed of by the competent authority after proper application of mind. Keeping in view the liabilities of the family and the inadequate retirement benefits received by the widow, we consider that this is a case which merits consideration of the respondents. We also clarify that under the provisions prescribing selective approach

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for appointment on compassionate grounds, there is no bar for considering the suitable candidates for appointment in Group 'C' subject to the candidate having the required educational qualification and provided a vacancy in Group 'C' exists.

We accordingly order and direct that the respondents shall consider the applicant for appointment in Group 'C'/Group 'D' as the case may be on compassionate grounds within a period of 4 weeks from the date of communication of this order. In the circumstances of the case there will be no orders as to costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A) 5/7/1991

A.V. Haridasan
(A.V. Haridasan)
Member (J) 5/7/91