

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.NO.1048/91

DATE OF DECISION:31.10.1991.

SHRI HOSHIAR SINGH APPLICANT

VERSUS

UNION OF INDIA & ORS. RESPONDENTS.

CORAM:-

THE HON'BLE MR. D.K. CHAKRAVORTY, MEMBER(A)

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

COUNSEL FOR THE APPLICANT : SHRI D.R. GUPTA

COUNSEL FOR THE RESPONDENTS: SHRI N.S. MEHTA, SR. STANDING COUNSEL

ORAL JUDGEMENT

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is son of late Sh. Chatter Singh, an employee of Govt. of India Press, Faridabad, and who died in harness, has prayed for his employment on compassionate grounds, in the said department. The applicant's case further is that major portion of the amounts, received on his father's demise, has been spent away, for the marriage of one of his sisters, namely Smt. Savitri Devi, which was held after his father's death and, therefore, they have been left with almost nill or negligible amount, out of the same, and the monthly family pension @ Rs.705/- per month, is hardly enough for the remaining members, numbering five, to pull along, in these hard days and, accordingly, the family is in utter indigent circumstances, necessitating giving of compassionate employment to the applicant.

2. The respondents' case, as put forth in their counter, supplemented with their reply to the Misc.Petition, moved by the applicant, is that not only the family had got a considerable amount to the tune of Rs.58,287/-, by way of all benefits, but, the family belonging to the poor strata, as is evident from the pleadings in the case, the family pension of Rs.705/- per month, and also whatever might have been left with, out of the above amounts, should suffice for their livelihood, especially keeping in view the standard of living to which they might be used to. The plea of the respondents also is that keeping in view the tight position of the vacancies available in the department, for direct recruits as well as sons and wards of the deceased employees of the department, who applied earlier to the applicant, as explained in the reply to the Misc.Petition, ^{/the urgency of the present case} recedes to the background, and deserves to be considered only after the earlier cases, against the percentage of vacancies, left for the sons and wards of the deceased employees of the department.

3. We have also heard the learned counsel for both the sides, who, broadly dilated upon and stressed their respective stands, as mentioned in the earlier paragraphs. The learned counsel for the applicant, however, by referring to a recent decision of the Hon'ble Supreme Court, in their judgement in the case-Smt. Phool wati Vs. U.O.I., decided on 5.9.90, as SLP No.1003/90, in which their earlier decision in Smt. Sushma Gosain Vs. U.O.I. (AIR 1989 S.C. P.1976), has also been referred to, and pleaded that as held therein,

and keeping in view the particulars of applicant's family, he deserves to be given the job of a labourer, in the respondents' department, as applied for by him, on compassionate grounds, and if necessary, even by ordering a supernumerary post, to be created for him.

4. The learned counsel for the respondents, in reply, referred to 1989(10)ATC P.43, relevant portion of which may be reproduced as under:-

"This decision is, therefore, no authority for the proposition that the High Court or the Tribunal has jurisdiction to impose any punishment to meet the ends of justice. It may be noted that this Court exercised the equitable jurisdiction under Article 136 and the High Court or Tribunal has no such power or jurisdiction."

His plea was that, it is beyond the powers of this Tribunal to order creation of any supernumerary post for the applicant, as, such powers only lie with Hon'ble Supreme Court, under Article 136 of the Constitution. The learned counsel for the respondents further emphasised that with the amounts received by the family, after the demise of late Sh. Chatter Singh, and keeping in view the socio-economic strata to which they belong, it is not a fit case where applicant's compassionate employment should be ordered by this Tribunal.

5. We have carefully considered the facts and circumstances of this case and also the rival contentions put forth on behalf of both the sides. We have also looked into the

particulars of family, its liabilities with particular reference to the plea that the major portion of the dues received by the family, might have been spent, in the marriage of one of the daughters of the deceased, and also in maintaining the remaining members of the family, including the widow, during the period of over two years, by now, after the death ^{late} of Shri Chatter Singh. Three of the remaining members are still of the ages of 12, 10 and 8 years, and are to be brought up, educated and fixed up in life. Keeping the same in view, we feel that the family is indeed in indigent circumstances and does need the help by way of compassionate employment of the applicant. As regards the question that the present application has not been made by Smt. Chander Vati widow of late Sh. Chatter Singh, needless to say that in an earlier request by her to the department, she had requested for the compassionate employment of the present applicant, who alone had attained majority, out of remaining dependants and, therefore, this should suffice to meet the requirement, alluded to by the learned counsel for the respondents. We may also refer to the quota aspect, as pointed out by the learned counsel for the respondents, and direct that in case the applicant cannot be accommodated against the vacancies for the various kinds of reservations, he may be considered for employment against the vacancies for direct recruits, after assessing his suitability, by way of interview, to be held alongwith other aspirants, his name being already registered with the Employment Exchange concerned, which should meet the requirement in this regard, by relaxing,

if necessary, any other hurdle that may arise, in considering
his name against the direct recruitment.

Application disposed of, as above, with no order
as to costs.

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

D.K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER(A)

/vv/