

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1131 OF 2004

New Delhi, this the 7th day of May, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Smt. Magdilini
W/o Late Yunus
2. Julius
S/o Late Yunus
Block R/o MA-58, MES Colony,
Subroto Park, Delhi Cantt-10.

.....Applicants

(By Advocate : Shri A.K. Trivedi)

Versus

1. Union of India,
Through It's Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Chief Engineer,
HQs Chief Engineer (AF) WAC,
Palam, Delhi Cantt.-110010.
3. The Garrison Engineer (North),
Air Force, Palam, Delhi Cantt.

.....Respondents

ORDER (ORAL)

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking a direction to quash and set aside the order dated 9.3.2004 (Annexure A/1) rejecting the claim of applicant NO.2 for compassionate appointment.

2. It is stated that applicant NO.1 is a widow of deceased Govt. employee Shri Yunus, who was working as Electrician in the Military Engineering Service with the respondents and died in harness on 2.4.2000. It is claimed that immediately on the death of the deceased employee, the applicant No.1 made a representation on 23.5.2000 seeking employment of her son, i.e., applicant no.2. In spite of repeated representations, the respondents did not grant the

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compassionate appointment in favour of the applicant No.2 and have admittedly rejected the same by the impugned order dated 9.3.2004 (Annexure A/1). The reasons given in the rejection order are that the family of the deceased employee consists of widow, one son and three daughters and terminal benefits of Rs.3,37,630/- have been received and monthly pension of Rs.1755/- plus dearness relief is being paid to them. It is also observed by the respondents in the impugned letter dated 9.3.2004 that the case of the applicant was rejected by the Board of Officers at Army Headquarters as the case of the applicant was less meritorious and there were no sufficient number of vacancies within 5% quota for the said appointment. Learned counsel states that the impugned order is non-speaking order inasmuch as the guide-lines of respondents as per OM dated 9.2.2001 (Annexure A/6) have not been followed. In any case, there is nothing to suggest that they have actually followed the same and the case of the applicant No.2 has been found not deserving one as per their own guide-lines. According to the learned counsel, the family of the deceased is in financial difficulties after the demise of the sole bread winner. The three daughters as well as applicant no.2 (son) were dependent on deceased employee and are still unmarried. The terminal dues and pension was not sufficient to keep them financially in a position to help themselves. It was, therefore, urged that the rejection of the prayer of the compassionate appointment to the applicant No.2 should be quashed and set aside and the respondents be



directed to consider the case of applicant No.2 for compassionate appointment.

3. After hearing the learned counsel of the applicants for some time, it is noticed that the applicant NO.2 was born on 1.3.1973 as per details available at Annexure A/4. In other words, he was more than 25 years at the time of death of the Govt. employee on 2.4.2000. The Jodhpur Bench of this Tribunal in OA 230/2002 in the case of Hari Singh Vs. Union of India and others decided on 27.9.2002, has held that though the dependant family members includes spouses and sons besides other,s they could not be held to be dependent if the son was more than 25 years of age at the time of death of the employee. In this connection, reliance has been placed on Pension Rule 54. As per sub-rule 14 (b), the family means as follows:-

"(b) "family" in relation to a Government servant means-

- (i) wife in relation to a Government servant, or husband in the case of a female Government servant.
- (ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.
- (iii) son who has not attained the age of (twenty five) years and unmarried daughter who has not attained the age of (twenty five) years, including such son and daughter adopted legally."

Accordingly, this Tribunal held that once the son who has attained the age of 25 years could not be

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said to be dependent and is also not entitled for grant of any pensionary benefits as per the pension rules, as such he cannot be said to be dependent for the purpose of compassionate appointment also. Respectfully following the said decision of Jodhpur Bench of the Tribunal in Hari Singh's case (supra), I am of the view that the claim of the applicant NO.2 for compassionate appointment is not tenable in law. Therefore, no relief can be granted to him for this purpose.

4. The sole purpose of the scheme for compassionate appointment is to extend immediate financial help to the surviving members of the deceased employee. A perusal of the details of the family shows that the wife as well as daughters were perhaps eligible for being considered for compassionate appointment. The contentions of the learned counsel of the applicants that the impugned order is non-speaking order with reference to the scheme of compassionate appointment of the respondents as contained in their circular dated 9.3.2001 (Annexure A/6) and as per revised instructions of DOP&T dated 5.5.2003, the case for compassionate appointment could be considered in subsequent meetings also upto the maximum of three times. If the case of the applicant NO.2 was meritcrious but the employment could not be offered for want of vacancy and in case the applicant No.2 is not eligible, the applicant No.1 or any of daughters of applicant No.1 could approach





afresh to the respondents for such an appointment on compassionate grounds. The respondents will be at liberty to consider the same in accordance with the rules considering the merits of the claim, if so made.

5. Subject to the above, this OA is disposed of without any order as to costs.


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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