

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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C.A. NO. 1273/92

DATE OF DECISION: 04.09.92

Smt. Sudarshan Kumari Sharma & Anr. ... Applicants

Vs.

Union of India & Ors.

... Respondents

CORAM

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

For the Applicants

... Sh. S.K. Bisaria

For the Respondents

... Sh. Jag Singh

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

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J.S.

JUDGEMENT

Applicant No.1 is the widow and applicant No.2 is the son of late Shri S.K. Sharma, who was working under Controller Auditor General of India and was posted in Posts and Tele Communication Department as Audit Officer, Delhi. Shri S.K. Sharma died in harness on 11.3.1991 and he was survived by the following heirs :-

(i) Widew mother (ii) Wife, i.e., the applicant No.1
(iii) Ashok Kumar, applicant No.2 (iv) Deepak Sharma, the younger son.

The applicant No.1 applied for compassionate appointment of Shri Ashok Sharma, older son and the request was rejected by the letter dt. 30.10.1991.

2. In this application, the applicants have prayed for the relief that the respondents be directed to consider and appoint applicant No.2 on some suitable post on compassionate ground and further allot suitable accommodation for residential purpose.

3. The impugned order dt. 30.10.1991 rejecting the request of the applicants is to the effect that one of the sons of the deceased is working in Ranbaxy Laboratories Limited and drawing a salary of Rs.2323.50 p.m. and the other son, i.e., applicant No.2 is also earning about Rs.1,000 p.m. So the request could not be acceded to.

4. The case of the applicants is that applicant No.2 is unemployed and according to the policy of the Government of India and as per the decisions of the Hon'ble Supreme Court, it is the moral duty of the respondents to provide appointment to applicant No.2 on compassionate ground. It is further stated that applicant No.2 has no other alternative source of income and he has a legal right to be appointed to the post. The earning, the family is having is not sufficient for their maintenance.

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5. The respondents contested the application and stated in the reply that the family is not indigent and the other son is also suitably employed as well as applicant No.2 the is getting about Rs.800 to Rs.1000 p.m. from an employment. The applicant No.2 was also interviewed, but the respondents after considering the whole/matter did not accede to the request of the applicants. Appointments on compassionate ground are exceptions to the/normal channel of recruitment and have to be viewed in the circumstances of the case. The guidelines laid down by the Department of Personnel and Training in the letter dt. 25.11.1978 also apply to the appointments in the Indian Audit and Accounts Department and that lays down that assistance may be given by compassionate appointment when there is no other earning member in the family. Further in a deserving case even when there is one earning member in the family, compassionate appointment can be given if the family is in indigent circumstances having regard to the number of dependents left by the deceased. Applying the same test to the case of the applicants, the family of the deceased received about Rs.2,10,360 as terminal benefits and the widow is getting family pension of about

Rs.2,052 p.m. Besides this, the other son is also employed as well as applicant No.2 is also earning about Rs.800 to Rs.1000 p.m. The wife of one of the sons is also employed. Taking all these facts into account and also that the deceased died at the age of more than 57 years and had he been alive, the terminal benefits received by the family would have been much less than now paid after his death. The respondents have given a very detailed accounting regarding the status and financial conditions of the family and so it is prayed that the family is not in indigent circumstances and no assistance can be given to the applicants for compassionate appointment of applicant No.2.

6. I have heard the learned counsel for both the parties at length and have gone through the record of the case. In fact the compassionate appointment is meant only to rehabilitate the family when the sole bread earner dies in harness. However, in the case of the applicants, the family cannot be said to be in indigent circumstances. The family has already received about Rs.2,10,360 as terminal benefits and besides Rs.2,000 and so are being paid as family pension to the widow of the deceased. The younger son is also suitably employed so also his wife and the elder son is earning from

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an employment about Rs.800 to Rs.1000 p.m. Thus the overall family income by no means can be said to be insufficient to maintain the family reasonably. There is no other liability in the family as has been referred to above.

7. Though the learned counsel for the applicant has referred to certain cases where employment has been given to Kumari Neerja Sharma in the case of Shri K.C.Sharma, who died in harness as Section Officer and also in the case of Shri Bhatnagar where the elder son in the family was also an earning member and employment was given to Kumari Indu Bhatnagar, his daughter. However, it cannot be said that there is any discrimination meted out to the applicant because the applicants in the rejoinder did not state the terminal benefits and other benefits received by these families. In the present case, the respondents have given a detailed reason rather a proper counting of the earnings of the family which goes to show that the applicants' family is not in indigent circumstances. The cases of Sushma Gosai vs. Union of India, AIR 1989 SC 1976 as well as Pheelwati vs. Union of India, AIR 1991 SC 469 decided by the Hon'ble Supreme Court are solely on different facts. The

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stance laid down in these cases only goes to show that compassionate appointment should be given at the earliest to rehabilitate the family of the deceased employee. In the present case, the family needs no rehabilitation by virtue of the earnings in the family.

8. In view of the above facts and circumstances, I do not find that there is any case to interfere with the impugned order. The Original Application is devoid of merit and is dismissed leaving the parties to bear their own costs.

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