

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No.2524/92

Date of decision: 5-3-93

Smt. Chameli .. Applicant

Vs.

Union of India & .. Respondents
others

CORAM:

The Hon'ble Mr. C.J. Roy, Member(J)

For the Applicant .. Shri B.S.Charya, Counsel

For the Respondents .. Shri J.C. Madan, Counsel

(1) Whether Reporters of local papers may be allowed to see the Judgement?

(2) To be referred to the Reporter or not?

JUDGEMENT

[Delivered by Hon'ble Mr. C.J. Roy, Member(J)]

This is an application filed by the applicant under Section 19 of CAT Act of 13/85 for compassionate appointment.

2. The brief facts of the case are that the applicant's husband was employed as Daftri with the Respondent No.2 and after putting in more than 20 years service, he died on 12.10.90 in harness. He left behind his wife and children. There are one minor daughter and minor son dependent upon the applicant and the rest are married. The applicant made a representation on 6.11.90 for a Group D post and she is aged 39 years. She made another

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representation on 24.12.91, as she did not get any reply. The Respondents No.2 replied to the applicant by letter dated 2.12.91 that the case of the applicant has not been approved for lack of qualification. The applicant states that her husband was not a matriculate and the rejection is not tenable and hence this application.

3. The respondents have filed a counter stating that rejecting appointment on compassionate ground is not arbitrary and improper and admit that the information sent by the applicant has been checked up and that the competent authority, after assessing the compassion of each candidate, did not approve the case of applicant for compassionate appointment.

My also state that
~~After her case was rejected, the applicant got a sum of Rs.51,551/- towards pensionary benefit and is also receiving family pension of Rs.470 plus DA per month. Her case for compassionate appointment to the post of Peon was considered by the Director, SSB, alongwith 15 other similar cases against the vacancy of 7 posts of Peon and the applicant not being educationally qualified was not given compassionate appointment.~~

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4. The Respondents have filed Annexure R-I giving a list of persons for compassionate appointment, R-III stating being educationally not qualified ^{and not approved,} her base has been considered, R-IV giving the scheme for compassionate appointment, R-V mentioning the recruitment rules for the miscellaneous staff in the SSB and also photocopy of OA No.1013/HP/89 dated 17.5.1990 in which the compassionate appointment has not been considered.

5. The applicant has filed a rejoinder more or less asserting the same points.

6. Heard the learned counsel for the applicant Shri B.S. Charya and the learned counsel for the respondents Shri J.C. Madan and perused the records.

7. The short point for consideration is giving compassionate appointment to the applicant or not.

8. The Recruitment Rules (Annexure R-V) provide that "where the Government is of the opinion that it is necessary or expedient so to do, it may by order for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons". Therefore, it is clear that the Government has powers to relax the recruitment rules like educational qualification and age requirement.

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9. In their letter dated 2.12.91, the respondents state that her case alongwith others has been considered by the SSB Director and her compassionate appointment was not approved due to want of required educational qualification. So this case is rejected on the ground of educational qualification and not on indigent circumstances.

10. In AIR 1989, SC 1976, in the case of Smt. Sushma Gosain Vs. UOI and in the judgement in 1991 Lab.I.C. 392 Phoolawati's case, their Lordships held that supernumerary post should be created for compassionate appointment and no delay should be made. The applicant has got unmarried daughter and son to support and she is in distress. If she had been educationally qualified, she would have been appointed in 1991.

11. The recruitment rules give power to the Respondents to relax the condition. No doubt compassionate appointment is not a vested right; it should be given only to deserving persons who are in indigent circumstances.

12. I therefore direct the respondents to consider the case of the applicant after relaxing the conditions of the recruitment rules for appointment on compassionate ground against the vacancies available in 1993. This exercise may be completed

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by the respondents within a period of three months from the date of receipt of the copy of the judgement. With this direction, the application is allowed. No orders as to costs.

W. Roy
(C.J. Roy)
Member (J)