

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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MP 3898/92 in OA 3198/92 Date of Decision : 18.03.93

Smt. Teeja Bai & Anr.

...Applicants

Vs.

Director General of Security
& Ors.

...Respondents

CORAM :

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

For the Applicants

...Shri O.P. Khokha, Counsel

For the Respondents

...Shri J.C. Madan, alongwith
Shri P.H. Ramchandani,
Senior Counsel

Judgement (Oral)

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

Shri Sukh Lal, Peon was employed with Director General of Security, New Delhi and he expired on 13.5.1990 when he was in active serving leaving behind his widow, Smt. Teeja Bai-applicant No.1, unmarried son, Shri Ram Swaroop-applicant No.2, unmarried daughter, Kumari Shakuntla besides a major son, named Laxman Prasad in the application and Lalloo Prasad in the counter. The terminal benefits admittedly which were awarded to the family of the deceased are about Rs.35,843 out of which a sum of Rs.3,689 appears to have been recovered on account of certain dues and a balance of Rs.32,154 has been paid to the legal representative of the deceased employee. A family pension of Rs.477 has also been sanctioned which will stand reduced to Rs.375 w.e.f. March, 1997. Applicant No.2 along with applicant No.4¹ applied for compassionate appointment stating in the application that the family is in

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indigent circumstances and needs immediate rehabilitation for assistance in appointment of applicant No.2, Shri Ram Swaroop. His application did not find favour with the respondents and by the impugned order dt.6.11.1991, the Assistant Director by the Memo informed the applicant that the Director, SSP has considered his case along with other cases for appointment on compassionate ground, but he has not approved his case as there were other cases which required favourable consideration. Aggrieved by this order, the applicants have filed this application under Section 19 of the Administrative Tribunals Act, 1985 for the relief that a direction be issued to the respondents to give compassionate appointment to applicant NO.2, Shri Ram Swaroop against the ^{any}disputed post in Group 'D'.

The notices were issued to the respondents, who opposed this application by filing a reply to which rejoinder has also been filed by the applicants. Since the pleadings in this case are complete, the matter ^{is} ~~was~~ heard finally with the consent of the parties.

The contention of the learned counsel for the applicants is that the family is in indigent circumstances and further the applicants belong to down trodden community and need special scrutiny regarding the status of the family whether it comes within the indigent circumstances or not. The learned counsel for the applicants also argued that the

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retirement benefits which have been received by the family are meagre about Rs.32,000 and that the family pension too is not sufficient to maintain the widow and two dependent members. It is also said that there is no other source of income in the family except that they have got one room apartment in Shakurpur Colony.

The learned counsel for the respondents, however, argued that the case of applicant NO.2 was considered for compassionate appointment to a Group 'D' post along with other cases and the case of the applicant was not found fit for giving him assistance. The respondents have also annexed a judgement of the Chandigarh Bench in OA 1013/89 decided on 17.5.1989 substantiating their contention that the matter has been considered thoroughly by the respondents and that because of other more compassionate cases, the appointment could not be given to applicant NO.2. Basically in the counter itself if the criterion for giving compassionate appointment is visualised objectively, it appears that at p-9 of the counter, five cases have been cited. Taking case No.1 of Ajay Kumar, his father Shri K.L. Sharma died while working as LDC and the family pension granted to him was Rs.637 besides the terminal benefits of about Rs.1 lakh given to the legal representative of the deceased employee. The surviving members of the family consist of a widow, one unmarried daughter and two sons. When the fact was brought to the notice of the learned counsel for the respondents, he differentiated this case on the ground

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that though the family strength is almost the same, but one of the sons of the deceased employee, Shri Sukhlal, i.e., Laxman Lal Prasad is living separately and is an earning member. However, that fact cannot be considered because during the course of the arguments, it transpires that the son who is living separately has got his own liability to support his wife, four daughters and one minor son. The respondents have not denied this fact in the counter. Now seeing to the case of the applicant, who belongs to Scheduled Case if the matter is considered objectively, then his case cannot be said to be in any way inferior to that of Ajay Kumar who has been given compassionate appointment. Moreover, the other cases considered by the respondents also go to show that even those legal representatives of the other deceased employees, who have been paid the retirement benefits ^{twice} ~~vice~~ the amount that has been paid in the present case and the family pension granted is much higher, have been considered for giving appointment on compassionate ground. Thus the assessment made by the respondents cannot be said to be equitable and just.

The administration also in such a matter should be fair and ^{discretion exercised should/objection} not be open to ~~precedent~~ on account of discrimination. In the case of Phoolwati Vs. Union of India, AIR 1991 SC 469, the Hon'ble Supreme Court has also considered a similar case where there were three unmarried daughters of the deceased employee and directed the respondents to give compassionate appointment as the family was found to be in indigent circumstances. In fact the case for giving compassionate appointment has to be

considered in its own facts and circumstances. The case of the Chandigarh Bench cited by the learned counsel for the respondents of Smt.Rita cannot be said to be applicable in the circumstances of the present case in view of the fact that the respondents themselves have given an appointment to Shri Ajay Kumar Sharma (supra) and that has been taken as a comparison with the status of the family of the present applicants.

In view of the above facts and circumstances, the impugned order passed by the respondents dt.6.11.1991 cannot be sustained and is, therefore, liable to be quashed. The application is, therefore, allowed with a direction to the respondents to consider the case of the applicant for giving compassionate appointment to applicant No.2 in the light of the observation made above and take a firm decision within a period of three months from the date of receipt of a copy of this judgement. In the circumstances, the parties shall bear their own costs.

J. P. Sharma
(J.P.SHARMA) 18.3.93
MEMBER (J)
18.03.1993