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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(11)

O.A. NO. 449/92

DECIDED ON : 23.3.93

Smt. Sudesh & Another

... Applicants

Vs.

Union of India & Others

... Respondents

COMRAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri V. P. Sharma, Counsel for Applicants

Shri R. K. Talukdar, UDC, Departmental
Representative present for Respondents

J U D G M E N T

Satya Prakash who was employed in Ordnance Factory, Muradnagar, died in 1987. Smt Sudesh (Applicant No.1) is the widow and Shri Navin Kumar (Applicant No.2) is the son of the said Satya Prakash. Applicant No.2 applied for compassionate appointment for a suitable job and he was informed vide order dated 31.5.1991 (Annexure A-1) that "As our sanctioned strength on NIE category has now been reduced, your case for appointment can only be considered for the post of Labourer 'B'. Hence if you are willing to accept the said post, you are advised to submit your willingness without any commitment otherwise your case will be treated as closed." Aggrieved by this order, the present application has been filed by the applicants. The respondents have contested this application and stated that the family of the deceased got Rs.29,000/- as terminal benefits and Rs.375/- plus DA per month as family pension. At the time of the death of the employee, Satya Prakash, Navin Kumar (Applicant No.2) was minor aged about 14½ years and he was only eligible for the

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post of Massenged Boy. So his case at that time was turned down. However, in pursuance of O.M. dated 30.6.1987 issued by the Department of Personnel, Public Grievances and Pensions, the case of Shri Navin Kumar was re-considered under OFB's letter No. 427/GCF/A/1/Vol.III dated 20.9.1988 and he was interviewed for the available post of Labourer 'B' in relaxation of normal age limit of 13 years. He was also issued an appointment letter dated 17.2.1989 but that was cancelled subsequently as no age relaxation was permissible for compassionate appointment. However, the name of the applicant No.2 was kept in the waiting list in view of the liabilities of the family to be considered after completion of 13 years of age.

2. When the applicant No.2 was considered, he had already passed High School and Intermediate examination and qualified for being appointed as LDC. However, the respondents considered his case only for Labourer 'B' as is evident from the impugned letter dated 30.5.1991 as no vacancy was available in Class-III.

3. The departmental representative appeared on behalf of the respondents and Shri V. P. Sharma, counsel, argued for the applicant contending that the applicant No.2 is a meritorious boy and he secured first division both in the High School as well as in the Intermediate examination and referred to the annexures filed along with the application which corroborate this fact. It is further argued that when the applicant No.2 is eligible for appointment to a Class-III post, then the respondents should have offered him one and not doing so the family of the deceased employee is being deprived of assistance. It is stated that the family still continues to be in indigent

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circumstances. The learned counsel for the applicants referred to the decision of the case of Sushma Gosain vs. Union of India: JT 1989 (3) SC 570 and Phoolwati vs. Union of India : AIR 1990 SC 1976. In both these cases the Hon'ble Supreme Court has held that the immediate help should be given to rehabilitate the family of the deceased employee who has died in harness. In the case of Sushma Gosain (supra) also the Hon'ble Supreme Court took the view that if the vacancy was not available, a supernumerary post should be created. It has been further held in the same case that "the purpose of providing appointment on compassionate grounds is to mitigate the hardship due to the death of the member earning for the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the appellant."

↓ In fact, the respondents themselves first offer^{ed} him appointment in the year 1989 on the ground that the family of the deceased needs rehabilitation but subsequently that offer of appointment though to Labourer 'B' was withdrawn. Again when the matter was considered, the applicant had already qualified for a Class-III post. In view of this, the respondents should have favourably considered the case of the applicant for a suitable employment. Needless to say that the applicant has secured better marks in both High School and Intermediate examinations and it shall not be fair and just if he is taken on a Labourer 'B' post. In fact, compassionate appointment should also be given on the basis of qualifications possessed by such a candidate.

4. The respondents have no other objection to the appointment except that there is no post available for the applicant. The respondents may, therefore, given him the first available post when it falls vacant.

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5. In view of the above facts and circumstances, the present application is allowed. The respondents are directed to consider the case of the applicant sympathetically on the basis of the decision of the Hon'ble Supreme Court in the case of Sushma Gosain (supra) and pass necessary orders within three months from the date of receipt of a copy of this order. There shall be no orders as to costs.

J. P. Sharma
23.2.93
(J. P. Sharma)
Member (J)