

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * *

Date of Decision: 27.08.92.

OA 124/92

SMT. PROMILA V. GAIKWAD

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

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

For the Applicant ... SHRI O.P. SOOD.

For the Respondents ... Ms. JASVINDER KAUR,
proxy counsel for
SHRI JOG SINGH.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*

2. To be referred to the Reporters or not ? *js*

JUDGEMENT (ORAL)
(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant is the widow of Shri V.L. Gaikwad who was last employed in the Govt. of India Press, Ring Road, Maya Prui, New Delhi and died in harness on 19.8.88 leaving behind six sons and one married daughters and one grand daughter. Out of these sons two are already married and employed. After the death of her husband the applicant represented to the respondents to give appointment to the second son Shri Sharad. As stated above, the first and third sons are married and living separately, as alleged. The applicant's representation was not favourably considered

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and she was informed by the impugned order dated 22.7.91 (Annexure-A) that Shri Sharad cannot be given compassionate assistance in his employment as two other sons of the applicant are already employed. She has assailed this order praying for the relief for the appointment of this son stating that he has already been selected and that the occupied allotted premises in favour of the deceased, Type II/5, Press Colony, Ring Road, Maya Puri, New Delhi, be regularised in favour of the said son after quashing of the Memo dated 19.7.91.

The applicant has alleged that she is in indigent circumstances and needs immediate rehabilitation of the family of the deceased and the amount she has received by way of terminal benefits of the deceased amounting to Rs.84,794/- includes DCRG, Group Insurance, GPF balance etc. and monthly pension of Rs.860/- which is not sufficient to maintain the large family in the hard days. She has stated that the applicant belongs to Scheduled Caste/ Backward Classes and that son in question handicapped. The case of the applicant is also that the applicant was called for selection for the post of Machine Attendant and that he has qualified trade test.

The averments made in the application is to the fact that the family has no other source of livelihood or no moveable or immovable property except what they

inherited from the deceased employee in the shape of terminal benefits.

The respondents contested the application and in the reply they do not deny about the indigent nature of the family but stated that the two other sons of the applicant Shri Ranjan and Shri Kishan are in employment and as such it cannot be said that the family needs immediate help and rehabilitation. The respondents have also referred to the decision of Satyabir Singh's case given in OA 618/90 where a Division Bench of the Principal Bench directed to prepare a scheme in the form of a list for all Govt. Press in Delhi and the persons so listed in that scheme be given compassionate appointment in their turn. The respondents also did not deny the particular averment made in para 4(J) where it is stated that the applicant was also tested for trade test and qualified in the same.

Regarding the premises allotted to the deceased employee it is stated that the applicant has no right after the death of the deceased employee to occupy the said premises and that she is liable to pay as an unauthorised occupant from the time the licence of deceased employee stood revoked as per extant rules applicable to the Govt. of India Press employees.

I have heard the learned counsel Shri Jog Singh for the respondents yesterday as the counsel for the applicant was not available and after that, by virtue of resolution of the Bar Association, the lawyer abstained from appearing the court and matter was adjourned for today. The applicant's counsel has been heard and the respondents have also produced the record regarding the selection of the applicant. From the official file it appears that Memorandum No.828046/5/77 Estt.I 1074 dated 9.8.89 goes to show that the Manager of the Govt. of India Press wrote to Directorate of Printing that Shri Sharad V. Gaikwad has passed the trade test and the widow of the deceased employee Shri V.L. Gaikwad, Ex. Reader has requested for the compassionate appointment of this son that necessary approval be conveyed for appointment in the Govt. of India Press, Faridabad.

Having given a careful consideration to the averments made in the application and to the arguments advanced by the learned counsel for the applicant no other inference can be drawn except that the family of the deceased employee is in stringent financial circumstances. Though the applicant has received Rs.84,000/- as terminal benefits but she has also stated in the application that the married daughter has since been deserted and the deceased employee has left certain liabilities which were discharged after his death

from the amount received which very much reduced the original amount making it insufficient to pull on that a large family left by the deceased. It is also a fact that the first and third son of the deceased employee have been married much earlier in the life time of the deceased and are living separately. Both these married sons are staying away at their respective places of posting even in different states one in Nasik in Maharashtra and other in Kalyan in Bombay. Though they are bound to care for the family of their father but the moral obligation cannot be enforced by depriving the present incumbent for assistance in getting employment on compassionate basis.

The judgement of Satyabir Singh supra lays down for preparation of a scheme but taking into account the circumstances of the present case and as per the law declared by the Hon'ble Supreme Court in the case of Sushma Gosain Vs. UOI (AIR 1989 SC 1976) and in the case of Phoolwati Vs. UOI (CA No.5967/90 decided on 4.9.90) an indigent family needs immediate help for its rehabilitation rather than the matter be shelved and deferred awaiting the formulation of a scheme and making a que for such aspirant for compassionate appointment. When the evidence furnished on the record in the form of documents is perse sufficient to draw un-rebutted inference and conclusion about the indigent nature of the

family it shall not be justified to leave the matter in the hands of the respondents who have already refused in spite of the selection of the applicant and recommendation of the Manager of the Press, the compassionate appointment as Machine Attendant in Govt. of India Press, Faridabad.

In fact an indigent person is one who does not own sufficient assets moveable or immovable to live with full two time meal for himself/herself and other dependent members of the family. The family pension of the applicant is Rs.860/- p.m. Actually the fact has not been disclosed by the applicant in their application but it is mentioned in para 4 (J) & (K) of the counter where any further interim relief or dearness allowance is payable on this amount has not been stated and so it cannot be assumed. Thus, for the family of six members the amount of the family pension is not so much as to keep a provision for both time meal for all of them and so the family needs immediate rehabilitation. As such the scheme visualised in the Satyabir Singh's case shall be an exception to the particular case.

The conclusion I have arrived is also because of the fact that the applicant has already been selected and recommended by the Manager of the Press for appointment on compassionate ground. I am reinforced

in my conviction by virtue of the fact that the applicant is a handicapped person. Regarding his status as belonging to down-trodden community the applicant has not filed proper evidence and averments made in the application are confusing as he claims both as belonging to Scheduled Caste as well as backward community, which are separate heads for giving benefits in particular ratio. Be that it may, I find it is a fit case where the respondents should have sympathetically considered the assistance in compassionate appointment to one of the sons of the applicant.

As regards regularisation of the premises the applicant's case has been recommended for compassionate appointment in Govt. of India Press, Faridabad. The learned counsel for the applicant with instructions of the applicant who is present is prepared to accept that appointment even in the circumstances that the present accommodation has to be vacated by him. In view of this fact, the other relief claimed by the applicant becomes redundant and cannot be granted. However, it is made clear that the applicant is given compassionate appointment and shall be bound to maintain the family of the deceased employee as per the extant OM of the Ministry of DOPT.

In view of the above facts, the present application is disposed of with the direction to the respondents to give appointment to the applicant as per the recommendations of the Manager, as referred to above, within a period of two months from the date of receipt of a copy of this order. The prayer for regularisation of the quarter, in the circumstances, cannot be allowed but the respondents should consider the case of the applicant sympathetically for recovering the dues which accrued due to the occupation by the family of the deceased employee after his death.

In the circumstances, parties are left to bear their own costs.

J. P. Sharma

(J.P. SHARMA) 27.8.92
MEMBER (J)
27.08.92