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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1558/93

New Delhi this the 7th Day of July, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman(A)
Hon'ble Smt. Lakshmi Swaminathan, Member(J)

1. Smt. Daya Wati
W/o Gokhal Chand.

2. Anil Kumar
S/o Sh. Gokhal Chand,
R/o Village Nurpur Distt.
Ghaziabad (UP).

...Applicant

(By Advocate Sh. Yogesh Sharma, proxy for Sh. V.P.
Sharma, Counsel).

Versus

Union of India through:

1. The Secretary,
Ministry of Defence, Govt. of India,
New Delhi.

2. The Director General,
Ordnance Factory Board,
10-A, Auckland Raod, Calcutta.

3. The General Manager,
Ordnance Factory, Murad Nagar,
Distt. Gaziabad (UP).

...Respondents

(By Advocate Sh. V.S.R. Krishna)

ORDER (Oral)
Hon'ble Mr. N.V. Krishnan:-

The OA relates to a claim for compassionate appointment. The first applicant is the widow of Gokal Chand, a Government employee who died in harness on 17.4.1991. The death certificate dated 18.4.1991 states that the death as ascertained by the doctor was Cardiorespiratory failure following Carcinoma larynx (on Radio Therapy), stated to be cancer by the applicant. The second applicant is the son of the deceased. An application was made for granting compassionate appointment to the second applicant.

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This was rejected as is seen by the letter addressed to the first applicant i.e. Annexure R-2 letter dated 10.12.91 of the General of the Ordnance Factory, respondent No.3. She was informed that the case for the employment of her son is not ~~considered~~ ^{is covered} by rules. On a further representation made by the applicant, the matter was considered by the Director General Ordnance Factory Board, Calcutta (Respondent No.3) but the decision was not changed vide the Annexure R-3 dated 2.2.93. This O.A. was filed at the time when the applicant filed the representation against the decision of the third respondent and it was under consideration of the second respondent.

2. We have heard the learned counsel for the parties today.

3. The learned counsel for the applicants submitted that the deceased has left behind him an indigent family which had incurred heavy expenditure on treatment of the deceased. In addition, none of the children is employed. One of them is also an unmarried daughter.

4. In their, reply the respondents have stated that an enquiry was made by the Senior Labour Officer. It revealed that, besides the widow of the deceased employee there are five children. The eldest is the second applicant, Anil Kumar, aged 27 years who was already married. There are three other sons, aged 25, 22 and 17 who are also stated to be unemployed. There is also a daughter aged 19 years who was unemployed and also unmarried. On the death

of the deceased employee, terminal benefits amounting to Rs. 87,608 and a monthly pension of Rs.1054, including relief, is being paid. In addition the family has a house consisting of four rooms in an area of 150 sq. yards. As the eldest son for whom the compassionate appointment was sought was already married, it was felt that he cannot be a burden on the widow of the deceased. Considering all these reasons, the claim for compassionate appointment is rejected.

5. We have considered the matter. We are of the view that when the son of an employee gets married ~~is rightly~~ he is, treated to be independent of the family. It is a different matter that he may not be in a position to support his parents, ~~if~~ if he himself is unemployed, but he cannot be considered to be a burden on the family. In other words, it is not improper to consider who is a dependent on the widow of the deceased in the light of the definition of family in the rules framed by Government for various purposes. It is quite possible that, if the wife of the deceased had sought employment for some other son, perhaps the competent authority might have viewed the problem differently. It is quite true to say that the deceased has left a large family of five children. Excluding the eldest son, the remaining four are said to be unemployed and one is also an unmarried daughter. It is also to be remembered that whatever be the restrictions imposed by the rules of Government or their instructions, no mother will remain unconcerned if her children are unemployed and not settled in life.

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6. In the circumstances, we are of the view that it would be in the interest of justice to permit the first applicant to seek compassionate appointment for any of the other children, so that the claim for such appointment could be considered again on merits by the respondents in the light of the rules and instructions. We, therefore, dispose of this OA by permitting the first applicant to submit a fresh application within one month from the date of receipt of this order seeking employment for any other children and leaving it open to the respondents to consider the case of the son/daughter, who in their view is eligible. In case such an application is received, the respondents are directed to dispose it of in accordance with law, within a period of four months thereafter under intimation to the first applicant.

7. The OA is disposed of, as above. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

N.V. Krishnan
9.7.95
(N.V. Krishnan)
Vice-Chairman

'Sanju'