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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA no.1735/93.

New Delhi, this the 29th day of April, 1994.

SHRI J.P.SHARMA, MEMBER(J).

1. Shri Bachan Lal Saxena,
son of late Gopi Chand Saxena,
resident of B-34, C.R.R.I. Flats,
Maharani Bagh, New Delhi-110065.Applicants
2. Shri Anil Kumar Saxena,
son of Shri Bachan Lal Saxena,
resident of B-34, C.R.R.I. Flats,
Maharani Bagh,
New Delhi-110065.Applicants

By advocate : Shri K.N.Bahuguna.

Versus

1. Council of Scientific & Industrial Research,
'Anusandhan Bhawan',
Rafi Marg, New Delhi-110001.
2. Director,
Central Road Reserach Institute,
P.O. C.R.R.I.,
Delhi-Mathura Road,
New Delhi-110020.Respondents

By advocate : Shri A.K.Sikri.

ORDER

The issue raised in this OA relates to appointment on compassionate ground of applicant no.2. appointment on compassionate ground of applicant no.2. C.R.R.I., New Delhi. On account of an accident, Applicant no.1 was employed as Helper with Directory engagement to perform his duties and on medical grounds New Delhi. On account of an accident, the applicant no.1 became medical unfit for further engagement to perform his duties and on medical grounds, he had to retire pre-maturely. The applicants made representation to the respondents but the same has been rejected. The applicant filed earlier OA-86/91 which was disposed of by the order dated 19-7-92 directing the applicant no.1 to make fresh representation with a specific request to the competent authority to relax the rules relating to the age of the retiree and in case a representation is made, the competent authority shall consider the same sympathetically and pass appropriate orders on the same.

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The applicants are also in occupation of the quarter no. B-34, C.R.R.I. Flats, Maharani Bagh, New Delhi and it was directed that till the representation is disposed of, the applicants shall not be dispossessed from the said flat subject to their liability to pay licence fee in accordance with the relevant rules. Since the applicants were not given any reply to their representation, they filed the present O.A. on 17-8-93 in which they have prayed that the respondents be directed to consider the representation of the applicant no.1 dated September 15, 1992 and by relaxing the rules applicant no.2 be given compassionate appointment and further the respondents be restrained to dispossess the applicant from the quarter no. B-34, C.R.R.I. Flats, Maharani Bagh.

2. The respondents in their reply contested the application and opposed the grant of the relief. It is stated that the representation of the applicants has been disposed of by the order of July 16, 1993 that the request for appointment on compassionate ground of the son in relaxation of prescribed guidelines/norms has not been acceded to. It is stated by the respondents that the applicant no.2 is not entitled for compassionate appointment in view of the O.M. of Ministry of Personnel dated 30-6-1987. The applicant no.1 was a group 'D' employee retired pre-maturely on account of permanent disability after crossing the age of 57 years. In normal course, he would have retired at the age of sixty. The guidelines on compassionate appointment of son etc. provide that in exceptional cases when a department is satisfied that the condition

le of family is indigent and is in great distress, the benefit of compassionate appointment may be extended to a son etc. of a government servant retired on medical grounds under rule 38 of CCS (Pension) Rules, 1972 or corresponding provisions in the Central Civil Service Regulations before attaining the age of 55 years or in the case of group 'D' employees whose normal age of superannuation is 60 years, compassionate appointment may be considered where one retires on medical grounds before attaining the age of 57 years.

3. The applicant has also filed the rejoinder reiterating the same facts as he has averred in the original application. I heard the learned counsel for the parties and perused the records. The applicant no.1 completed 57 years of age on 4-7-88. He received a paralytic attack on 18-6-89, i.e., at the age of 57 years, 11 months. The retirement age of the applicant, being a group 'D' employee, was 60 years. The question of relaxation of age, therefore, is purely an administrative discretion. It is a fact that there is no earning member in the family. The respondents in their counter have stated that the Directorate General, CSIR in consultation with the Government of India took a decision that it is not a fit case for relaxation of the prescribed guidelines/norms. The Tribunal cannot sit as an appellate authority over the aforesaid decision arrived administratively by the competent authority. A similar matter came before the Hon'ble Supreme Court in the case of Life Insurance Corporation of India v. Mrs. Asha Ramchandra Ambekar & Another reported in Judgments Today 1994 vol.2 SC p.183. In that case, Mrs. Ambekar was employed as Higher Grade

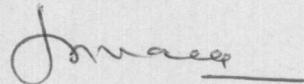
Assistant in LIC. Upon his death, first respondent his widow applied for her compassionate appointment and the request was rejected on 12-12-1987. Thereafter, the second respondent made various representations but the request was rejected in view of the circular dated 6-10-87. Thereafter, the writ petition was filed before the High Court and the High Court by the order dated 19-10-93 directed the LIC to appoint second respondent within 4 weeks of the date of the order. The LIC went in appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court held as follows :

" 13. The Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very case, itself, there are Regulations and Instructions which we have extracted above. The Court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the Circular dated 20.1.1987 interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory Corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered. "

4. In the present case also, the respondents have not relaxed the guidelines. The competent authority has considered the matter on the direction issued by the Tribunal in its order passed in OA-86 of 1991 dated 17-7-92. A perusal of the aforesaid judgment shows

that the Tribunal had earlier considered sympathetically the various contentions raised by the applicants and thereafter directed "the respondents to re-consider the matter". Now, there is no justification to issue a direction to the respondents to consider the case of the applicants in relaxation of the guidelines.

5. In view of the above facts and circumstances, the application is dismissed and the interim direction that the applicant be not dispossessed from the quarter issued on 26-8-93 is vacated. Costs on parties.



(J.P.SHARMA)

MEMBER (J)

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