

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1818/93

New Delhi this the 21st Day of October, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)

1. Smt. Pito Devi
Wd/o Late Ganga Ram
2. Nepal Singh
S/o Late Sh. Ganga Ram,
R/o Village Brampuri Mohilla,
Muradnagar Distt.
Ghaziabad (UP). ...Applicants

(By Advocate Sh. V.P. Sharma)

Versus

1. Union of India through the Secretary, Ministry of Defence Production, Govt. of India, New Delhi.
2. The Director General, Ordnance Factory Board, Ministry of Defence, 10-A Auckland Road, Calcutta.
3. The General Manager, Ordnance Factory, Muradnagar, Distt. Ghaziabad (UP).
... Respondents

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

ORDER OF

The applicants are aggrieved by the Annexure A-1 order dated 12/15.4.92 issued by the third respondent by which the first applicant has been informed that her representation for employment on compassionate grounds of her son could not be acceded to for the ground mentioned therein.

2. Shri Ganga Ram the Government employee died in harness on 8.3.90. The first applicant is the widow of the deceased employee. The second applicant is the son of the deceased. It is stated that the deceased has left behind the widow and 5 other children of whom the second applicant

is the eldest son. In addition, there is one daughter who is married and two other sons who are unemployed and a second daughter who is unmarried. The ^{first} applicant made a representation for the employment of her second son Sanjay Dass Pappu in the first instance. That application was rejected. Thereafter, the first applicant made a representation for the employment of her first son Nepal Singh, the second applicant, on compassionate grounds. The particulars of the benefits which ~~she~~ obtained were communicated by her to the third respondent in the mercy appeal at Annexure A-7. It is stated that though the terminal benefits of around Rs.102565 was received, Rs.21,000 had to be incurred to clear the ~~death~~ debts incurred in the treatment of the deceased employee and to clear the ~~death~~ debts incurred on the occasion of the marriage of the son and daughter. In the circumstances, it was pointed out that the first applicant was left with very little resource to maintain the family. Hence, the compassionate appointment was sought. In the O.A. it is pointed out that the Govt. have issued the guidelines in regard to compassionate appointment which is annexed as Annexure A-18 with the rejoinder. The relevant para which has been quoted in the OA states that an application should not be rejected merely on the ground that the family of the deceased Govt. servant had received the benefits under various welfare schemes and that the liabilities should be taken into account as also other relevant factors such as presence of earning members in the family etc. It is pointed out that the Annexure A-1 reply discloses total

lack of application of mind and hence it is prayed that this order be quashed and the respondents should be directed to consider the case of the second applicant for appointment on compassionate grounds.

3. The respondents have filed a reply. A preliminary objection has been taken that the OA is barred by limitation because it has been filed in 1993 whereas the grievance pertains to an order of 1990. It is further stated that on the application made by the first applicant, the matter was considered in accordance with the Govt. orders. The Senior Labour Officer was asked to verify the pecuniary conditions of the family. His report stated that the first son Nepal Singh was married and employed, whereas two sons and one daughter were studying. One daughter who was married is reported to have died about a year and a half ago. It is further revealed that the family was having their own house. In view of these circumstances, it was concluded that the condition of family was not indigent and hence the application was rejected.

4. I have heard the learned counsel for the parties.

5. The learned counsel for the applicant submitted that on the face of it, the Annexure A-1 order shows that it has been passed without application of mind. It merely states that Rs.1,14884 have been given as terminal benefits and Rs.800/- per month have been given as family pension which are sufficient for maintenance of the deceased family. On the contrary, the Govt.

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orders at Annexure A-18 specifically states that no application should be rejected on this ground. He, therefore, prays that the respondents should be directed to reconsider the case of the applicant.

6. It is his further contention that the additional information given by the respondents in their reply as to the grounds on which the application for compassionate appointment was rejected should not be taken into account. For this purpose the learned counsel relies on the decision of the Supreme Court in Mahendra Singh Gill vs. Chief Election Commissioner - AIR 1978 SC 851. He points out that on the ratio of this judgement the respondents should not be permitted to add any thing to the impugned order.

7. The learned counsel for the respondents submits that the case has been considered in accordance with the standing orders of the Government and after application of mind it was decided that there was no merit in the application.

8. The first question is whether the detailed grounds given in the respondents reply can be taken into account by us in deciding this OA, as the learned counsel for the applicant submits that on the ratio of the judgement in Gill's case, this cannot be done. I have had an occasion to consider this objection in detail. I am of the view that the ratio of that judgement of the Supreme Court would apply only to orders which are passed under any statute. In other

words, a statutory order required to be passed by an authority should be self contained in so far as the reasoning is concerned to arrive at a conclusion mentioned therein. That conclusion cannot be supported by any other statement. That ratio will not apply to the order of an administrative nature, as in the present case.

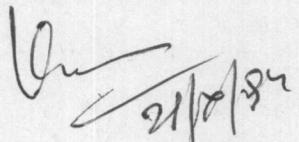
9. The charge that the respondents have not applied their mind does not stand established in view of the facts mentioned in the counter given by the respondents. It is stated that the second applicant was employed when an enquiry was made and that the family has a house. These points have not even been contradicted in the rejoinder filed by the applicant.

10. The learned counsel for the applicant also draws our attention to a judgement in OA-1293/93 delivered on 17.1.94 in respect of compassionate appointment in the same respondents office. He states that the facts of that case are absolutely similar to the facts of the present case and, therefore, he requests that this case should also be disposed of on the same lines and in case I do not agree with this judgement, the matter may be referred to a Larger Bench.

11. I have considered the matter. The Supreme Court had laid down the scope of judicial review. The question is in what manner the decision has been arrived at. On the facts, that have been presented before me, I am satisfied that in the present case the, respondents have taken decision in accordance with the instructions prescribed. In the circumstance,

I am of the view that the judgement referred to by the learned counsel has no application to the facts of the present case.

12. For the aforesaid reasons I do not find any merit in the O.A. It is dismissed. No costs.


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

'Sanju'