

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA.No.1824 of 1993

New Delhi this the 31st January 1994

Shri C.J. ROY, Hon. Member(Judicial)

Shri Rajeev Kain,
S/o Late Shri P.K. Kain,
R/o 8378, Arya Nagar,
Pahar Gang,
New Delhi.

Applicant

By Advocate Shri B. Krishan

Versus

1. The secretary,
Ministry of Urban Development,
'C' Wing, 1st Floor,
Nirman Bhawan,
New Delhi 110 011.

2. The Chief Architect,
Office of the Chief Architect-I,
Central Public Works Department,
Nirman Bhawan,
New Delhi 110 011.

Respondents

By Advocate Shri P.P. Khurana

O R D E R

This OA has been filed by the applicant Shri Rajeev Kain under Section 19 of the Administrative Tribunal's Act, 1985 against the order of the respondent dated 26th March, 1992 by which, the request for employment on compassionate ground has been rejected.

2. The facts of the case, according to the applicant are that his father who was working in the Office of the chief Architect-I, Central Public Works Department, New Delhi which is a sub-ordinate office in the Ministry of Urban Development, died in harness on 5.5.1991 leaving behind three sons and a daughter besides his widow and old mother. He represented for appointment on compassionate grounds being the most

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eligible son of the family at present both in terms of age and qualification, which was rejected. He belongs to the Scheduled Caste community. The eldest son of the family aged 28 years is stated to have fallen prey to the bad habits of taking intoxicants and therefore, was chased away from the house and is living separately from the family. As requested by the respondents, he furnished certain information regarding the details of the properties owned by the deceased and other information concerning the said request. The respondents had kept one post of LDC vacant but subsequently rejected his representation putting him and the family under distress. He preferred a review petition to the Hon. Minister for Urban Development in view of the rejection of his representation by the respondents by way of non-speaking order, which is still stated to be pending consideration. In the due course he was constrained to surrender the Government quarter allotted to the deceased employee in June 1993 when the charges on account of damages for overstayal became beyond the capacity of him. All the pensionary benefits have been spent on loans procured by the deceased in view of his illness and the only source of income is the pension of the widow. Presently the family is in great distress and marriage of the only sister is being deferred on account of paucity of funds. Besides, he is also studying in the IIInd year graduation in the evening college. He has prayed for a direction to the respondents to give him employment under the Central Government/Department of Delhi Administration under the direct control of Chief Engineer (PWD), in any of the category 'C' posts.

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3. The respondents have filed the counter in which they have stated that the eldest son of the deceased Government servant is employed in RBI as a clerk but it stated to be living separately. The request of the applicant was considered but was not agreed to in view of the fact that the family had received pensionary benefits and also that the case was not considered to be a fit one requiring immediate assistance from Government. The applicant is also not legally entitled to seek relief here as he is not a Government servant.

4. I have heard the learned counsel for both parties and perused the documents on record. The instructions of the Department of Personnel and Training dated 30th June 1987, in regard to the appointment on compassionate grounds is as follows:

"In deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned, who before approving the appointment, will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning members as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support to the other members of the family."

5. The applicant was asked to furnish informations regarding the details of the properties owned by the deceased but inspite of providing all the informations, without giving any reasons, the representation was rejected by the respondents. But the respondents have kept one post vacant. Having

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asked to furnish certain informations, the rejection of the representation without any reason at the fag end would not only cause hardship to the applicant alone, but to the entire family depending on him. When the family is in indigent circumstances and when one post is kept vacant, allowing an opportunity to the heirs of the deceased children who died in harness ~~unemployed~~ would not only earn him a ~~living~~ to maintain the ^{my} family left in the indigent circumstances but also indirectly repose confidence in him to have faith in the human goodness. The applicant has also a liability to perform the marriage of his sister which is stated to be deferred on account of paucity of funds. Denying him the opportunity at this juncture does not sound good for the benevolent state.

6. Also there exists a legal obligation in favour of the applicant for giving employment on compassionate grounds in terms of the guidelines prescribed above, in view of the fact that the elder brother is living separately. The Hon. Supreme Court in the case of Smt. Phoolwati versus Union of India and others (AIR 1991 SC 469) and Smt. Sushma Gosain versus Union of India (AIR 1987 SC 1976) has clearly observed that:

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"It can be stated unequivocally that in all claims for appointment on compassionate grounds there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in 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 applicant"

7. Here, in the instant case, there is already a
vacancy available with the respondents.

8. In the conspectus of the above facts and
circumstances of the case, I direct the respondents to
appoint the applicant in a suitable post based on his
eligibility and qualification either under their
department or the Department of Delhi Administration
under their direct control namely Chief Engineer(PWD),
as expeditiously as possible, preferably, within a
period of three months from the date of receipt of a
copy of this order.

The OA is allowed. No costs.

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(C. S. ROY)
MEMBER(J)

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