

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, 8

OA No.1881/93

New Delhi, this 3rd day of December, 1994

Shri C.J. Roy, Member(J)

1. Smt. Chamoli Devi, w/o late Tej Ram
2. Mahendra Pal, s/o -do-
r/o Vill. & PO Morta, Dt. Ghaziabad(UP) .. Applicants

By Shri V.P. Sharma, Advocate

Versus

1. Union of India, through the
Secretary, M/Defence
New Delhi
2. The Director General
Ordnance Factory Board
10-A, Auckland Road, Calcutta
3. The General Manager
Ordnance Factory
Muradnagar (Ghaziabad)

-- Respondents

By Shri V.S.R. Krishna, Advocate

ORDER

The applicants are aggrieved by the rejection letter dated 6.11.90 (Annexure A-2) for the appointment of Applicant No.2 on compassionate grounds. The second applicant's father died in harness on 8.11.89 while in service with R-3, after a prolonged illness, leaving behind his widow (Applicant No.1) and 9 children of which two daughters are stated to be unmarried and three sons employed. The applicants made an appeal on 21.10.90 (Annexure A-4) which is not replied to, so far. Hence this application with a prayer for quashing the impugned letter and giving direction to the respondents to appoint Applicant No.2 on compassionate grounds against a suitable post.

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2. The respondents have filed their reply stating that the widow has been paid a lump-sum amount of Rs.67,112/- as terminal benefits, she is getting a family pension of Rs.1113/- per month. They further say that on verification it is found that 3 elder sons of the deceased are earning members and married, while three daughters are married and living with their husbands and also that the family is having their own house constructed in 150 sq. yards. They contend that the appeal was rightly rejected by the competent authority after careful consideration of all the aspects in accordance with the Government orders and after coming to a conclusion that the condition of the family was not indigent.

3. The applicants have filed a rejoinder stating that the whole amount of terminal benefits received by them was spent on repaying the outstanding loans and that the three elder sons are living separately from whom they are not getting any support.

4. I have heard the learned counsel for the parties and perused the records.

5. The contention of the learned counsel for the applicants is that the deceased was the only earning member and the elder sons are working as Mazdoors as and when they get job and also living separately with their own family. He further submits that marriage of two daughters are yet to be solemnised for which the applicants have no other sources of income.

6. The contention of the learned counsel for the respondents is that the family is not in indigent circumstances that the compassionate appointment should be given to them. He further submits that the judgements by the applicant's counsel are not applicable in this case.

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7. Compassionate appointment is not a right to claim. However a perusal of the OM dated 28.9.92 issued by the Department of Personnel (Annexure A-13) shows that "it is not that the application for compassionate appointment should be rejected merely on the ground that the family of the deceased Government servant has received the benefits under the various welfare schemes. While these benefits should be taken to be assessed taking into account its liabilities and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc. so that balanced and objective assessment is made on the financial condition of the family while considering a request for appointment on compassionate grounds". In the instant case, admittedly the deceased has left behind a large family of which the elder sons, though employed as mazdoor etc. and that they are living separately and there is no support from them to the applicants.

8. In the circumstances, I dispose of this OA with a direction to the respondents keeping in view of the observations made on the circumstances placed before me, which may or may not have been placed before the respondents, The respondents are directed to reconsider the representation of the applicant No.2 for compassionate appointment against a suitable post within a period of 3 months from the date of receipt of the order. No costs.

/tvq/

3/12/94
(C.J. Roy)
Member(J)