

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA.No.501 of 1993

New Delhi the 17 December 1993

Smt. Javitri Devi
Wd/o Nain Singh

Jai Bhagwan
S/o Shri Nain Singh

By Advocate Shri V.P. Sharma.

Versus

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

By Advocate Mrs. Raj Kumari Chopra.

JUDGEMENT

(delivered by Hon. Member(J) Shri C.J. ROY)

This application is filed under Section-19 of the Administrative Tribunal's Act, 1985 praying for a direction to the respondents for compassionate appointment of applicant No.2.

2. The facts of the case are that the applicant No.1 is the widow and the applicant No.2 is the son of late Main Singh, who died in harness while working as Machinist. He has left behind five sons and one daughter besides the widow. There is no other earning member in the family. Two elder sons of the deceased are living separately and they have no connection with the family. The terminal benefits have been utilised

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for clearing the debts and for maintaining the family. The applicant No.1 made several representations to the respondents but were rejected vide Annexure A-1 order dated 8.9.92. Hence the applicants have filed this application praying for compassionate appointment of applicant No.2 in place of the deceased employee who was the only bread earner of the family, as per the Government instructions. He has cited the case of Smt. Sushma Gosain versus Union of India reported in AIR 1989 (SC) 1976 and Phoolwati versus Union of India reported in AIR 1991 (SC) 469.

3. The respondents in the counter have raised a preliminary objection as the application is barred by limitation. The cause of action arose in 1987 whereas the application is filed in 1993. Even on jurisdiction point they have raised objection as the deceased employee had been serving in Ordnance Factory Muradnagar, District Ghaziabad, Uttar Pradesh which comes under the jurisdiction of C.A.T. Allahabad, U.P. At the request of the widow, the applicant No.2 Shri Jai Bhagwan was tested/interviewed for the post of labourer 'B' and the case was forwarded to the Ordnance Factory Board, Calcutta who in turn forwarded the same to the Secretary (DP) Ministry of Defence for consideration in relaxation of normal recruitment rules in accordance with Government order. The widow had been paid an amount of Rs.35,440/- towards terminal benefits and an amount of Rs.468/- + 83% D.A thereon has been sanctioned as pension to her. Her Ist son is an earning member. As such, even on prima facie the applicant has no case, as the request of the

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applicants were duly considered and rejected as not being covered under the provisions of Government instructions.

4. In the rejoinder, as regards the preliminary objection raised by the respondents, the applicants have denied them on the ground that the final order has been passed by the higher authority on the representation/appeal filed against the action of the respondent No.3 and hence the cause of action arose on 8.9.92 and the OA has been filed on 24.2.93. Therefore, the OA is within the period of limitation. As regards jurisdiction, permission to file the OA in the Principal Bench of the Tribunal has already been granted by the Hon'ble Chairman.

5. I have heard the learned counsel for both parties and perused the documents on record. The only question remains for consideration is whether, or not, the applicant No.2 is entitled for compassionate appointment since the 1st son of the deceased, who is an earning member is living separately and not supporting the family. Taking into consideration the indigent circumstances of the family in maintaining a large family consisting of five members including the widow of the deceased, without going into the merit of the case, I direct the respondents to reconsider the representations submitted by the applicants herein for compassionate appointment of a family member of the deceased, which would not only give a way out but also enable them to lead a peaceful life. I strongly reiterate ^{that} this should not set a precedent for future appointments of such type on compassionate grounds.

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The above order shall be complied with, within a period of three months from the date of communication of this order.

6. The application is disposed of with no order as to costs.

W.R. 17/12/93
(C.J. ROY)
MEMBER(J))