

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

0A.853/93

Date of Decision: 16.9.93

Union of India through
Director of Printing,
Min. of Urban Development
and other Respondents

Shri D.R. Gupta Counsel for the applicant

Ms. Pratima Mittal, proxy
Counsel for Shri K.C. Mittal Counsel for the respondents

SINGLE BENCH JUDGEMENT
(delivered by Hon.Member(J) Shri C.J.ROY)

This OA has been filed against the order of the respondents dated 19.3.1993 rejecting the request of widow of the deceased Government servant Smt. Bharpai Devi for the employment of her son Shri Yag Dutt Gaur on compassionate ground.

2. The case of the applicant is that his father died in harness on 3.6.92 leaving behind 4 persons. The pension amount that they are receiving now Rs.750/- p.m. would be reduced to Rs.450/- w.e.f. 15.7.1997. The retiral benefits received by them were spent in maintaining their family and that there is an unmarried daughter in the 4 persons left by the deceased. He made a representation for compassionate appointment which was rejected by the respondents. Hence this application.

3. The respondents filed the counter and also argued that having received the terminal benefits to the tune of Rs.1,09,244/- and the monthly pension amount of Rs.750/- p.m. which is now

been increased as Rs.1200/- p.m. as take home amount, the claim for compassionate appointment was rejected on the applicant being over-aged for consideration and there was also a ban on compassionate appointment. Hence the application be dismissed as not maintainable.

4. I have heard the learned counsel for both parties and perused the documents placed on record.

5. The OM dated 25.1.1993 issued by the Department of Personnel and Training on the subject 'No "ban" for Compassionate appointment' clarifies that compassionate appointments are exempted from the ban of filling up of the posts in terms of this Department's OM.No.14014/84-Estt.(D), dated 12.3.1984.

It is also clarified that compassionate appointment should not be denied or delayed merely on the ground that there is re-organisation in the Department but should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he is found eligible and suitable under the scheme. All pending requests for compassionate appointments may be reviewed to accommodate persons concerned against posts available for such appointments.

6. As regards relaxation in educational qualification and age limit, the Department of Personnel and Training in its OM dated 30.6.1987 has made it clear that in exceptional cases and wherever it is necessary, relaxation can be made.

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7. The OM dated 28.9.1992 of the Department of Personnel clarifies and Training/that the application for compassionate appointment should not 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 into account, the financial condition of the family has 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 of appointment on compassionate grounds.

8. In the case of Smt. Phoolawati Vs. Union of India Civil Appeal No.5967 of 1990 arising out of SLP No.10039/1990 a reference has been made to the case of Smt. Sushma Gosain and others Vs. Union of India and others in AIR 1989 SC 1976, the operative portion of which is reproduced below:

"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 post should be created to accommodate the applicant".

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g. In the conspectus of the above facts and circumstances of the case, the rejection of the request of widow of the deceased Government servant for the employment of her son Shri Yag Dutt Gaur on compassionate ground is not acceptable to me. I, therefore, direct the respondents to reconsider the case of the applicant for appointment on compassionate grounds in its turn, as expeditiously as possible, preferably within a period of three months from the date of communication of this judgement. No costs.

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(C.J. ROY)
MEMBER (J)
13.09.1993

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