

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

O.A.NO. 736 OF 1996

Allahabad, this the 4th day of Feb 1999.

CORAM : Hon'ble Mr. S.L.Jain, Member (J).

Sri Laieq Ahmad, S/o. Late Shri Bachhan Lal, R/o.
village Manauri, P.O. Manauri, Distt. Allahabad.

.....Applicant

(By Shri V.B.L.Srivastava, Advocate)

Vs.

1. Union of India, through
Ministry of Defence,
Barauda House, New Delhi.

2. The Commandant,
Station Workshop, E.M.E.
Allahabad.

.....Respondents.

(By Shri Ashok Mohiley, Advocate)

O R D E R (Reserved)

(By Hon'ble Mr. S.L.Jain, Member (J))

This is an application under section 19 of Administrative Tribunal Act, 1985 for issue of an order/direction or writ in the nature of Mandamus commenting the respondents to appoint the applicant on any suitable post on compassionate ground without any further delay.

There is no dispute between the parties in respect of the fact that Late Bachhan Lal was a permanent Meth having rendered 30 years service and posted at Station Workshop, E.M.E., expired on 6-6-92. After the death of Late Sri Bachhan Lal the widow of Late Sri Bachhan Lal submitted an application to the respondent No.2 requesting him to appoint the applicant on a suitable post under his control on compassionate ground. The applicant was sent for Medical Examination, was medically examined and found fit and Police verification was also

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conducted in respect of the applicant, but no appointment order was issued.

The applicant's case in brief is that Late Sri Bachhan Lal left behind him his widow Smt.Saira Bano, Km.Ashma Begum(daughter), applicant (son), Km.Ashiya Begum(daughter). The source of income was only the income of late Sri Bachhan Lal. After his death all the family members of late Sri Bachhan Lal are in great misery and are in destitude position. The applicant was informed and told by the respondent No.2 that the appointment letter will be issued to him very shortly. He met respondent No.2 several times and he was assured for appointment whenever the vacancy occurs. He is waiting for the same since last more than two & half years. Hence this O.A. for the above said relief.

The respondents denied the facts and alleged that the widow of late Sri Bachhan Lal was paid DCRG of Rs.30,845/=, G.P.Fund Rs. 51,802/=, CGEIS Rs. 16,812/= and she is being paid family pension of Rs. 375/- per month. On receipt of application it was forwarded showing the vacancies in the office of Station Workshop, E.M.E. Allahabad, subsequently the Army Headquarters (AG's Branch) vide their letter No.72613/ST-I/Orgn.-4(Civ)(b), dated 29-10-92 intimated that the case is being forwarded to the Controlling Directorate for their recommendation. No further communication has been made. The applicant submitted a representation on 7-9-93 directly to the Chief of the Army Staff, New Delhi, which has been forwarded to this Unit by Headquarter, Central Command vide letter dated 19-10-93 stating to submit detailed comments on the subject. Thereafter the E.M.E. Workshop submitted a

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detailed reply vide their letter No. 20302/Civ Est. dated 16-11-93 through departmental channel. Thereafter the Headquarter Central Command directed the E.M.E. Workshop vide their letter No. 462/18/04/EME Civ, dated 15-12-93 to submit the documents as desired in the letter. The name of the applicant has also been included in the proforma as defined in Army H.Q. letter dated 14-12-93 which has been forwarded vide letter dated 17-1-94.

Compassionate appointment is made to enable the deceased family to tide over sudden financial crisis and not to provide employment as a routine. Mere death of an employee does not entitle his family to compassionate appointment. The authority concerned has to consider as to whether the family of the deceased employee is unable to meet the financial crisis resulting from the employee's death. The consideration for such employment is not the vested right which can be exercised at any time.

The object being to enable the family to get over the financial crisis which it faces at the time of death of the sole breadwinner. The compassionate employment cannot be claimed after lapse of years and after the crisis is over. The time taken is as a matter of procedure to obtain sanction from higher authorities for appointment on compassionate ground.

The applicant was told that his case is under consideration. His appointment is governed by O.A. dated 30-6-87 issued by the Ministry of Personnel & Grievances, Govt. of India. Hence prayed for dismissal of the Original Application with cost.

On perusal of the pleadings it is apparent that the case of the applicant is still in consideration. No order has been so far passed either in favour of the applicant or against him.

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1994 Supreme Court cases (L&S) 930 Umesh Kumar

Nagpal Vs. State of Haryana & Others with Anil
Mallik Vs. State of Haryana & Others, the Apex Court
of the Land has held as under :-

"The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post hold by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in classes III and IV are the lowest posts in non manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family of the financial destitution and to help it get over the emergency.

Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above classes III and IV, is legally impermissible."

"Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in the future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

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The learned counsel of the respondent argued that it is not a vested right hence no relief can be provided to the applicant. It is true that the claimant cannot claim to a particular post, but he has the right for the consideration regarding compassionate appointment as held in AIR 1994 Supreme Court 845 State of M.P. & Others Vs. Ramesh Kumar Sharma.

There cannot be any doubt that the applicant's case is governed by O.M.No. 14014/6/86-Estt., dated 30-6-87, Ministry of Personnel, Public Grievances & Pensions, (Dept.t.of Personnel & Training).

The only order which can be passed in present case is that looking to the object of the compassionate appointment, the respondents who have failed to decide the applicant's case till the filing of C.A., the present position not known to the Bench, are directed to decide the applicant's case within a period of six months positively. No further extension of time shall be allowed.

In the result O.A. is allowed. The respondents are directed to consider the case of the applicant and decide the same within six months from the date of receipt of the order positively. No further extension of time shall be allowed. Looking to the facts and circumstances of the case it is ordered that parties shall bear their own cost.

Saloni
MEMBER(J)

gvs/