

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 231 OF 2001

ALLAHABAD, THIS THE 22nd DAY OF JULY, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Smt. Vidhyawati wife of Late Shiv Prasad.
2. Vinod Kumar son of Late Shiv Prasad.

Both are resident of House No.35/148,
Etawah Bazar, Kanpur Nagar.

....Applicants

(By Advocate : Shri S. Dwivedi)

V E R S U S

1. Union of India through the Secretary,
Ministry of Labour, Government of India,
New Delhi.
2. The Director General,
Employees State Insurance Corporation,
Pahondeep Bhawan, H.Q. Office, New Delhi.
3. The Regional Director,
Employees State Insurance Corporation,
Regional Office, Kanpur Nagar.

....Respondents

(By Advocate : Shri P.K. Pandey)

O R D E R

By this O.A. applicant has sought the following
reliefs:-

- (A) That the suitable order or direction may be
issued to the respondents for giving employment
to applicant No.2 on compassionate ground
on any post in accordance with his qualification
- (B) Any other and further relief which this Hon'ble
Tribunal may deem fit and proper be also
awarded to the applicant.
- (C) Cost of proceeding be awarded to the applicant.



2. It is submitted by the applicant that husband of the applicant No.1 was permanent class IV employee of Employees State Insurance Corporation. He died on 21.08.1996 in harness leaving behind his widow, two sons and two daughters, out of which one son was already employed during the life time of his father but was living separately and is not giving any type of assistance to the family of ~~the deceased~~ ^{the family of B} by the department of the deceased employee. Out of two daughters, one daughter was already married but since the other daughter was still to be married and second son was unemployed, an application was given for grant of compassionate appointment in favour of second son. Therefore, request for compassionate appointment was rejected vide letter dated 12.01.1999. But applicant again gave a representation before respondent No.2 for passing appropriate orders, which was also rejected vide letter dated 05.02.1999 (Annexure A-4 and A-5 respectively).

3. It is submitted by the applicant No.2 that he again submitted a representation to respondent No.2 for reconsideration of the matter followed by number of reminders and once again vide letter dated 22.11.2000, she was informed that her request has been reconsidered by the Director General but her case has not been found ^{fit} ~~proper~~ for giving compassionate appointment (Annexure A-8). Applicant has not challenged any of the orders passed by the respondents but has sought a direction to the respondents to give employment to applicant No.2 on compassionate grounds on the ground that family is in a financial distress and this is a fit case for grant of compassionate appointment.

4. Respondents on the other hand have taken a preliminary objection to the maintainability of the O.A. itself on the ground that this O.A. is barred by limitation as cause of action has arisen in favour of applicant if any in Jan 1999 when the request of applicant No.1 was rejected whereas the

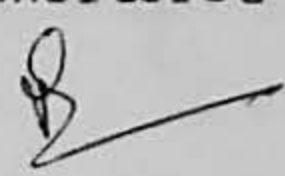
present O.A. has been filed only on 22.02.2001.

5. On merits they have submitted that the elder son of applicant No.1 got employment in E.S.I. Corporation during the life time of his father and applicant No.1 has already been paid an amount of Rs.28,000/- on account of provident fund apart from family pension @Rs.505/- per month, which has been revised to Rs.1860/- + Dearness allowances w.e.f. 21.08.1996 to 07.10.2001 and thereafter @ Rs.1275/-. She has already been paid an amount of Rs.50,315/- on 22.09.1998 as arrears of death gratuity and Rs.6,111/- in June 1998 as arrears of leave encashment. Therefore, it was looking into all these aspects of the case, applicant was considered by the authorities but since it was not found fit for grant of compassionate appointment, ~~the~~^{the} same was rejected.

6. Counsel for the respondents submitted that a person only has a right of consideration and in this case applicant's case has not been considered once, twice but three times ^{by B} ~~to~~ the higher authorities. Therefore, no case has been made out for reconsideration. He also submitted that compassionate appointment cannot be claimed as a matter of right or as a line of succession and the very fact that family has been able to survive so long without any assistance from the department, that itself shows that family is not in a distressed condition. He, therefore, submitted that the O.A. may be dismissed with costs.

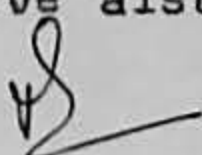
7. I have heard both the counsel and perused the pleadings as well.

8. It is correct that the first time applicant's request for compassionate appointment was rejected on 12.11.1999 but thereafter on representations having been made by the applicant, her request has been considered by the highest authorities who



has rejected the claim vide letter dated 22.11.2000. The O.A. was filed in the year 2001, therefore, this case cannot be dismissed on the ground of limitation. The plea of limitation is therefore, rejected. However, the main issue in the matter of compassionate appointment is to see whether the case of the applicant has been considered by the authorities or not and whether the reasons assigned by them for rejecting the claim are valid in the eyes of law or based on some extraneous consideration and whether the case is such that it should be sent for reconsideration by the court.

9. From perusal of various letters written to the applicant it is clear that department has not given any reason whatsoever while rejecting the claim of applicant. The law is well settled by now that whenever a representation is made to the authorities concerned, the least that is ^{expected &} ~~accepted~~ from the department, is to give a reasoned and detailed order to the person concerned so that it may satisfy him without dragging to the court of law. Therefore, to that extent the grievance of applicant is right that no reasons have been given in any of the letters while rejecting the claim of applicant for grant of compassionate appointment. Grievance of applicant is also that number of other persons have been given compassionate appointment by the respondents even though they had better financial status than the applicant, whereas applicant has no movable or immovable property and the deceased employee had also left the liability of one son and one unmarried daughter. In my considered view once the orders are issued by the respondents for rejecting the claim, the reasons why the claim is being rejected should be stated in the orders itself. Respondents have also not given any reply to



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para 20 of the O.A. wherein applicant has specifically given the instances of other persons who have been granted the compassionate appointment. Therefore, in these circumstances I am of the opinion that this case should be remitted back to the respondents with direction to pass a reasoned and speaking order within a period of 2 months from the date of receipt of a copy of this order under intimation to the applicant.

10. With the above direction, this O.A. is disposed off with no order as to costs.



Member (J)

shukla/-