

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No. 879/2001

Thurs.....DAY THIS THE 25th DAY OF JANUARY, 2007

HON'BLE MR. K. ELANGO

MEMBER (J)

1. Smt. Shanti Devi,
Widow of Late Mohan Lal,

2. Harish Chandra,
S/o Late Mohan Lal,
Both are residents of
House No.39/6, Safed Colony,
Juhi, Kanpur 208 014.

Applicants

(By Advocate Shri B.D. Shukla)

Vs.

1. Union of India, through the Secretary,
Ministry of Defence,
Government of India,
New Delhi.

2. The Additional Director,
Ordnance Equipment Factory,
Head Quarter, G.T. Road,
Kanpur - 208 013.

3. The General Manager,
Ordnance Equipment Factory,
Kanpur - 208 001.

4. The Additional Deputy General Manager,
Ordnance Equipment Factory,
Group Head Quarter,
ESIC Bhawan, Sarvodaya Nagar,
Kanpur - 208 005.

Respondents

(By Advocate Shri R.K. Tiwari,
Standing Counsel for Respondents)

ORDER

This is a case of compassionate appointment to applicant No.2.

2 The brief facts of the case are that one Shri Mohan Lal, the late husband of applicant No.1 and the father of applicant No.2, while working in Respondent No. office as a Group 'D' employee died of harness on 13.09.1992, leaving behind his wife, three major sons and a minor son aged about 17 years. The first

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two sons are living separately in Maharashtra and only the widow and her two sons were living with the deceased employee at the time of his death.

3. Applicant No.1, being illiterate had requested the respondents for appointment of her third son, i.e., the applicant No.2 in this O.A., who is a intermediate and unemployed, for appointment on compassionate grounds, vide her representation/request letter dated 29.09.1992. On receipt of the same, the respondents took up the matter, got it enquired and in the inquiry report dated 14.10.1992, it was stated that the first two sons are living separately and only the applicant No.1 and her two sons are living together. They are staying in the KDA quarters by paying a rent of Rs.27/- p.m. plus electricity charges. Applicant No.1 is receiving a Family Pension of Rs.1,275/- plus D.A. on it at 49% totaling to Rs.1,899.75. The applicant No.1 was also paid terminal benefits of Rs.1,25,923/-. On receipt of the inquiry report, the respondents rejected the claim of the applicants for compassionate appointment of applicant No.2 on the ground that there were no indigent circumstances for providing immediate help by way of providing compassionate appointment, vide their letter dated 09.11.1992.

4. Heard Shri B.D. Shukla, for the applicant and Shri R.K. Tiwari, the learned counsel for respondents.

5. Shri Shukla submits that the respondents have not considered the request of the applicants for compassionate appointment sympathetically and their action is arbitrary, unreasonable, unfair, mala-fide and unjustified in law and the orders passed are without any application of mind, and without considering the submissions made by the applicant in her representation.

6. Per contra, the learned counsel for the respondents contended that it was necessary for the respondents while considering the applications for compassionate appointment, according to Government Rules, it was necessary to assess the assets, liabilities, terminal benefits received by the family as per scientific scale laid down and to measure the indigent circumstances of each case

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and offer employment to most deserving cases in only 5% of the vacancies. In the instant case, as per the inquiry report, three sons of the deceased employee are major, who cannot be treated as liability of deceased Government servant. The widow (applicant No.1) and her minor son are the only liabilities of the deceased government employee. Hence, there were no indigent circumstances for providing immediate help by giving compassionate appointment. Therefore, the competent authority had rejected the request for compassionate vide order dated 09.11.1992. He further contends that the death of an employee in harness does not confer any right on the widow/son/daughter to get appointment on compassionate ground. In support of this contention, Shri Tiwari relies on the judgment of the Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana - 1994 SCC (L&S) 931, wherein the Apex Court has held that "the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. They have also relied in another judgment of the Apex Court in the case of LIC of India Vs. Asha Ranchandra Ambekar - 1994 SCC (L&S) 737, wherein it was held that High Courts and Administrative Tribunals confer benediction impelled by sympathetic consideration.

7. The respondents have also raised the preliminary objection in paragraph No.8 of their counter statement that the application is time barred and in the rejoinder, the applicant has stated that an application for condonation of delay has been filed.

8. On a perusal of the records, I do not find any such application for condonation of delay in filing the O.A. has been filed by the applicant. There has been a delay of nearly 8 years from the date the first rejection letter dated 09.11.1992. The applicant ought to have approached this Tribunal within the stipulated time limit. She has not approached this Tribunal within the time limit nor has filed any application for condonation of delay showing the cause for the same. The Hon'ble Supreme Court has in a number of cases held that the Courts/Tribunals should not condone the delay unless there is proper application

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for the same showing satisfactory reasons. This application therefore
fails as time barred and the same is dismissed. No costs.

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(K. ELANGO)
MEMBER (J)

psp.