

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1119 OF 2001
ALLAHABAD THIS THE 19TH DAY OF JULY,2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Sri Raj Narain

@ Raju S/o Late Shri Babu Ram,

R/o T-29/F Old MH Area,

Cantt Kanpur, Permanent Address,

Village Veerpur Post Achhalda,

District-Auraiya.

.....Applicant

(By Advocate Sri B.K. Singh)

Versus

1. Senior Civil Staff Officer/
Army Head Quarter,
GS Branch SD-7 (Adm CIVS),
DHQ Delhi-110011.
2. Station Commander,
Station Head Quarter Kanpur,
Cantt-208004.
3. Area Commander,
Area Head Quarter, Bareilly.
4. Head Quarter,
Central Command, Lucknow.
5. Union of India,
through its Secretary and Ministry of
Defence, New Delhi.

.....Respondents

(By Advocate Sri P. Krishna)



ORDER

By this O.A. applicant has challenged the orders dated 13.7.2001 and 26.07.2001 whereby he was informed that his case for compassionate appointment has not been found fit by the competent authority because family of the deceased has received Rs.1,73,123/- by way of terminal benefits apart from family pension of Rs.1,755/-+ DA per month. There are no minor children and unmarried daughter was left with 8 as a liability and the deceased ~~had~~ only ~~left~~ less than five years service. It is further stated therein that only 5% of wasted vacancies can be filled by way of compassionate appointment. The condition of the family in this case is not in extreme pecuniary distress warranting employment assistance on compassionate grounds, therefore, the case has not been approved for compassionate appointment. Applicant has sought a direction to the respondents to provide job to the applicant. The ground taken by the applicant's counsel is that respondents ^{into consideration} could not have taken the terminal benefits while ~~distress~~ ~~deciding~~ the case for grant of compassionate appointment as held by Hon'ble Supreme Court in the case of Balbir Kaur.

2. He has further submitted that it is wrong on the part of respondents to state that there was no liability left by the deceased employee whereas the fact is that the deceased employee had taken loan from C.O.O. Salary earners' Cooperative Society, District Kanpur to the tune of Rs.12,000/- on 1.12.2000, Rs.50,000/- from one creditor, 20,000/- from relatives and about 25,000/- was spent in funeral and Terhi ceremony of the deceased employee, therefore, the amount was spent on the ceremony as mentioned above. Moreover, only Sanjay Kumar is married

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and no person in the family is employed and the widow is also suffering due to development of stone in her gall bladder. They need money for getting her treatment, therefore, the liabilities are very much there, as such it is a fit case for grant of compassionate appointment.

3. Respondents on the other hand, have submitted that the case of applicant was duly considered in 2001, but since it was found that the family did not have any distressed condition, therefore, it was not recommended for compassionate appointment. Counsel for the respondents submitted that since applicant has been duly considered he cannot claim compassionate appointment as a matter of right, therefore, the O.A. may be dismissed.

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

5. The details about the family members left behind by Shri Babu Ram who died on 31.01.2001 is as under:-

1. Smt Ram Kanti aged about 57 years widow of the deceased employee.

2. Ashok (son) aged about 35 years.

3. Raju (Son) aged about 32 years.

4. Sanjay (Son) aged about 27 years.

5. Mukesh (Son) aged about 23 years.

6. Ajay (Son) aged about 21 years.

7. Suraya (Daughter) aged about 37 years.
^{Married}

6. The law on the point of compassionate appointment is well settled by now that no-body can claim compassionate appointment as a matter of right or as a line of succession on the death of their father or mother. On the contrary, compassionate appointment can be given only



in exceptional cases where the sole bread earner dies leaving behind minor children or daughters who are to be married as a liability and the condition of family is such that they cannot even survive, unless immediate assistance is given to the family by the department.

7. In the instant case, as shown above, all the sons were major and are matured enough. In normal course, they should have been employed when their father died. The deceased employee did not leave behind any minor children or daughter who was to be married or had to be educated. The department felt it was not a fit case for grant of compassionate appointment as the number of vacancies meant for compassionate appointment are very limited and the family of the deceased was not one of those cases where family was in extreme pecuniary distress. It is correct that Hon'ble Supreme Court has held in the case of Balbir Kaur that compassionate appointment cannot be denied merely on the ground of terminal benefits but that is not the only ground on which applicant's case has been rejected. It is only one of the grounds and while deciding the financial distress of the family, definitely, department had to take into consideration all the aspects including the terminal benefits or the family pension which the family is getting. Therefore, it can't be said that the order is contrary to the judgment given by Hon'ble Supreme Court. After all for considering the financial distress, department has to see the assets and liabilities left by the deceased since vacancies are limited only such cases can be recommended which are most deserving. In the process naturally some cases get eliminated but they can't have any grievance because everyone cannot be given compassionate appointment.

Chancery

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8. Counsel for the applicant has not been able to show me any extra ordinary circumstances to demonstrate that the family was really in distress. In any case, courts can only see whether the case of applicant has been considered by the respondents and whether the same has been rejected on valid grounds or not. It is settled law that courts cannot give a direction to the respondents to give appointment to an individual but can only remit the matter back to the respondents to re-consider that too if either the case has not been considered or the reasoning given is not valid.

9. In the instant case applicant's case has been duly considered by the respondents and I find no illegality in the order passed by the respondents whereby his case for compassionate appointment has been rejected.

10. In view of the above, I do not find any good ground for interference. The O.A. is accordingly dismissed with no order as to costs.



Member-J

/Neelam/