

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

(THIS THE th13 DAY OF January, 2009)

PRESENT:

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

ORIGINAL APPLICATION NO. 1275 OF 2004

(U/s, 19 Administrative Tribunal Act.1985)

1. Smt. Yashoda Devi a/a 56 years W/o Late Shri B.K. Prasad House No. 20 Sant Nagar, Air Force Gate, Izatnagar, Bareilly.
2. Km. Shalini aged about 22 years S/o Late Sri B.K. Prasad, H.No. 20, Sant Nagar, Air Force Gate, Izatnagar, Bareilly.

..... Applicants

By Advocate: Shri A. K. Dave.

Versus

1. Union of India, through comptroller Auditor General of India, Bahadur Shah Zafar Marg New Delhi.
2. Principal Director of Audit, N.E. Railway Gorakhpur.
3. Senior Audit Officer (Administration), office of Principal Director of Audit N.E. Railway, Gorakhpur.
4. Divisional Audit Officer, N.E. Railway, Izatnagar.

..... Respondents

By Advocate: Shri P. Mathur.

ORDER

(DELIVERED BY: HON'BLE MRS. MANJULIKA GAUTAM-AM)

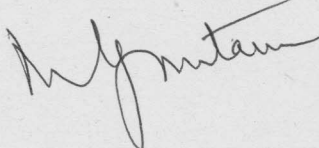
Late Shri B.K. Prasad was employed as Senior Auditor and died suddenly on 16.03.2001. He was survived his widow Smt. Yashoda Devi Applicant No. 1 and 4 unmarried daughters. The 4th daughter Kumari Shalini Applicant No. 2 with the consent of the other daughters submitted an application on 16.04.2001 for appointment on compassionate ground. All formalities were completed by Applicant No. 2 and after repeated representations

she was informed that her case was under process. She was also interviewed on 18.12.2002. Vide letter dated 26.12.2002 Applicant No. 2 was informed that her case was considered and not accepted by the committee. Aggrieved by this the Applicant No. 2 filled OA No. 517 of 2003 and vide order dated 23.01.2004 the matter was remitted back to the Respondents for deciding the matter again within a period of 3 months. In pursuance to the judgment dated 23.01.2004 the Respondents issued letter dated 23.04.2004 (Annexure A-1). The letter cited the following three reasons for not recommending the case of Applicant No. 2:-

- (i) *"Sri B.K. Prasad was to retire within 4 months from the date of his death and the financial condition of the family would not have changed much after his retirement.*
- (ii) *The financial benefits received by his family at the time of his death were sufficient to cater the needs of the family and the case is also not covered within financial limit of Rs. 3 lack subsequently fixed by the need quarter vide letter No. 121-NGE (App) 21-2003 Vol I dated 9.2.2003.*
- (iii) *The family jointly owned their ancestral house at Mugalsarai and also a plot of land at Bareilly."*

2. Not satisfied with the above, applicant No. 1 and 2 have filed the present OA claiming the following reliefs:-

- (i) *"To issue order or direction in the nature of certiorari for quashing the letter/order dated 23.4.2004 (Annexure No. A-1) by which the claim of the applicants has been rejected by the respondents administration.*
- (ii) *To issue a order or direction in the nature of mandamus commanding the respondents to*

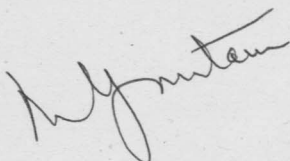


reconsider the matter/case of the applicants for compassionate appointment in the right perspective.

- (iii) To pass such other and further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
- (iv) To award the cost of the petition to the Applicants."*

3. The counsel for the Applicant argued vehemently that the actual financial conditions of the family and their liabilities had not been taken into consideration while taking a decision. He also referred to several other cases particularly the case of one Shri Madan Joshi where compassionate appointment was made inspite of better financial conditions of the family.

4. In the counter affidavit filed by the Respondents the financial conditions of the deceased Shri B. K. Prasad has been clarified and details of terminal benefits received by the family are also spelt out, so that no case for compassionate appointment was made out. Shri B. K. Prasad died only 4 months prior to his retirement and therefore, the family received full family pension and other benefits which they would have got at the time of retirement. Therefore, the family was not left in indigent circumstances. In the rejoinder affidavit filed by the Applicants reference has been made to preferential treatment given in the matter of late Shri B.B. Joshi whose son M. Mohan Joshi was appointed on compassionate ground on 23.04.2004. In this connection the concerned records of the Departmental committee meetings were also called for and perused.



5. The records shows that Shri B.B. Joshi, Auditor at the time of his death had about 15 years of service left and all his children were young and un-settled whereas when Shri B.K. Prasad died he had only 4 months left to retire and had completed more than 35 years of service. Therefore, his family received whatever benefits they would have received had he retired after 4 months.

6. Having heard both counsel. I am of the opinion that no case is made out for interfering in the matter. The Departmental committee after fully considering the facts of the case has taken well considered view and no case is made out to show any illegality or malafide in the matter. OA is accordingly dismissed. No costs.



MEMBER (A)

/S.V./