

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 15th day of June 2007.

Original Application No. 1360 of 2004.

Hon'ble Mr. P.K. Chatterji, Member-A

1. Smt. Jaitun Begum, W/o late Baboo Tailor

2. Sayeed Ahmad, S/o late Baboo Tailor

Both resident of 22/3 Juhi Lal Colony, Kanpur Nagar.

..... Applicant

By Adv: Sri S.K. Verma.

V E R S U S

1. Union of India through Defence Secretary, Ministry of Defence, Raksha Mantralaya, Bharat Sarkar, New Delhi.

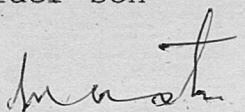
2. General Manager, Ordnance Parachute Factory, Napier Road, Kanpur.

..... Respondents

By Adv: Sri S. Singh.

O R D E R

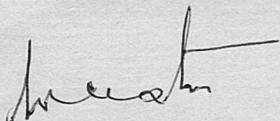
The applicant applied for a job on compassionate quota for her son after the death of her husband who was working as Tailor in Ordnance Parachute Factory, Kanpur. He died of cancer and it is stated by the applicant that during his service a lot of money was spent on his treatment. At the time of death the family was in very adverse pecuniary condition. So the applicant made an application on 06.12.2000 to the General Manager (respondent No. 2) for appointment of her elder son



Sayeed Ahmad on compassionate ground. The boy was eligible for appointment to the post of Tailor as per job requirement. However, the application was rejected on 20.08.2001 on behalf of respondent No. 1.

2. Feeling aggrieved the applicant submitted another application on 15.11.2001 and requested for review of the matter. However, no decision was taken by the respondents on the review application till now. The applicant is aggrieved that the decision was taken without application of mind and without taking into account the actual financial position of the family. It has large liability as it comprised many members including 85 year old father of the deceased employee. The applicant has also drawn my attention to the impugned order dated 20.08.2001 in which it has been stated that the applicant was in receipt of terminal benefit to the tune of Rs. 490107/-. Apart from this the family was also receiving a monthly pension of Rs. 2504/-. The respondents considered this amount to be sufficient for the maintenance of the family and, therefore, according to them it was not a deserving case for compassionate appointment.

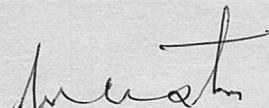
3. The applicant has approached this Tribunal with the prayer that direction be issued to quash the order dated 20.08.2001 and subsequent order dated



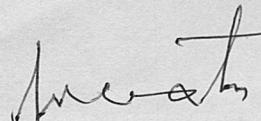
22.09.2004 which confirmed the first order. There is also a prayer for directing the respondents to consider appointment of the first son and applicant No. 2 on compassionate ground. The grounds which have been cited are as follows:

- a. There was not proper application of mind in rejection of his request.
- b. The respondents were indifferent to the distress of the family having not considered the actual liability and also the fact that a lot of money was spent for the treatment of the deceased employee.
- c. The grounds for rejection as given in the impugned order are not tenable as according to a number of judgments of different Courts/Tribunal retiral benefits could not be made a ground for rejecting request for compassionate appointment. In this context the applicant has cited from the following judgments:
 - i. **Dhiraj Kumar Dixit Vs. General Manager UCO Bank Kolkata 2002 (3) UPLBEC 2807.**
 - ii. **Balbir Kaur and others Vs. Steel Authority of India : 2000 (3) UPLBEC 2055.** In this case the Hon'ble Supreme Court has decided that the payment of gratuity and Provident Fund was statutory right and no clog on its payment could be imposed.
 - iii. **2001 (2) UPLBEC 1575 : Ram Pyare Vs. State Bank of India.** In this judgment it was held that family pension of payment of fund cannot be ground for rejection of application for employment under dying in harness rules.

4. The learned counsel for the respondents have denied the allegation. It has been explained in the

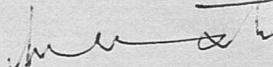


counter affidavit that the request made by the applicant was considered by the respondent No. 2 but it could not be approved for the reason that the family of the deceased was not considered to be in distress-full condition. The learned counsel for the respondents has stated that on enquiry it was also found that the some of the sons of the applicant were gainfully employed in different trades. Therefore, the financial condition of the family could not be stated to be one of extreme indigence. The learned counsel has drawn my attention to annexure CA a letter from the respondents dated 27.05.2001 in which some idea as to the earning of the family from other sources has been given. With the submission the learned counsel for the respondents has also stated that the vacancy under compassionate quota being limited, cases have to be considered on merit alongwith other applicants and, therefore, the immovable and moveable property in possession of the family has to go into consideration. Obviously the retiral benefits of the family being a very large part of the immovable property in possession of the family, this could not be excluded from the consideration. Learned counsel for the respondents has also stated that the case laws relied upon are old and the recent judgments of the Hon'ble Supreme Court would indicate that the retiral benefits could not be excluded from consideration because excluding this would not



afford a reasonable ground for comparing the relative merit of the applicants.

5. I have applied my mind to the pleadings and the arguments. In the judgment ***Union of India and others Vs. M.T. Latheesh [2006 SCC (L&S) 1646]*** the Hon'ble Supreme Court has pronounced that while considering the case for compassionate appointment it should not be altogether inadmissible to consider the retiral benefits. This may be taken as one of the parameters for ascertaining the relative merits amongst the applicant. For this reason I am of the view that there is no irregularity in the action of the respondents. The OA is, therefore, devoid of merit and is dismissed. No cost.



Member (A)

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