

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Allahabad this the 30th day of March 1995.

Original Application no. 934 of 1992.Hon'ble Mr. S. Dayal, Administrative Member.

Smt. Bhagwati, widow of late Shri Satpal Singh, R/o Bunglow no. 42, Surpentine Road, Bareilly Cantt., Bareilly.

... Applicant.

C/A Shri P.C. Jhingan.

Versus

- i. The Union of India through Secretary, Ministry of Defence, Central Secretariat, New Delhi.
- ii. The Deputy Director, General Military Farms, Quarter Master General's Branch, Army Head Quarters, R.K. Puram, New Delhi.
- iii. The Deputy Director of Military Farms, Head Quarters, Central Commands, Lucknow Cantt. Lucknow.
- iv. The Officer Incharge, Military Farms, Bareilly Cantt., Bareilly.

... Respondents.

C/R Shri N.B. Singh.

O R D E RHon'ble Mr. S. Dayal, Member-A

The applicant, the widow of a permanent employee has sought her appointment on a class IV

Cont...2/-

// 2 //

post of farmhand on compassionate ground owing to death of her husband in harness on 12.01.86. The applicant filed her application for employment in Military Farms on compassionate ground on 11.03.87. It was forwarded with accompanying certificates by Respondent no. 3 to Respondent no. 2 on 25.06.87. Respondent no. 2 made some queries on 29.09.87. The applicant submitted facts in her application dated 17.10.87. The applicant was employed in the Military Farms from 02.12.86 and continued to work as a daily rated worker till 08.09.90. She was removed without any notice or letter of termination.

2. The applicant has mentioned in the grounds of relief that she had no other source of maintaining her family except her terminal benefits and small family pension, that her husband died while he was in active service, and that she was entitled to appointment as a farmhand because of recommendation of Respondent no. 3 to the effect.

3. The respondents have stated in their reply that the deceased employee expired on 12.12.86 not on 12.01.86 as stated in the application. The case was rejected on the ground that there were two earning members in the family of the deceased and the widow of the deceased was getting family pension and the widow-applicant was informed on 07.09.88. An application by way of appeal dated 14.09.88 was received in which it was mentioned that an appeal dated

// 3 //

05.09.88 along with an affidavit were attached. But no attachements were found. It is stated that the conduct of the applicant, who worked as a casual daily rated worker in the veterinary section of the Military Farm, as well as her son visiting her, was not found to be satisfactory as she was found to be coming late habitually and her son stole things and picked up quarrel with the staff and called police to the farm.

4. The applicant in her rejoinder affidavit has stated that her right to get employment was mandatory and that the reason of rejection of her application was not right. She has stated that allegations against her and her son were false. She has stated that she had been given double punishment - denial of compassionate appointment and retrenchement from daily rated work.

5. Shri P.C. Jhingan, counsel for the applicant and Shri N.B. Singh counsel for the respondents, were heard. They reiterated the issues already contained in their written pleadings. The counsel for the Respondent was asked to submit norms for compassionate appointments on military farms within a specified time which he has not done even till the date of his judgement which is much later. The counsel for the applicant was permitted to cite any case law in his farum but nothing has been received from him also.

Cont....4/-

15
A2
5
// 4 //

6. The pleadings shows that the deceased left a widow, two sons and two daughters. Two sons appear to have been employed on casual basis as per Annexure A-5 in Rickshaw pl-ying and the second son was "doing Home Guarding of U.P. State Police" and were living separately. The widow was staying with one married and one unmarried daughter. The deceased was suffering from cancer before his death and Rs. 5000 were spent on his operation and Rs. 16000 on his medical treatment of which the operation fee had to be paid back in instalments to those from whom it was borrowed. She was receiving Rs. 456 per month and had received Rs. 23000 as gratuity, Rs. 962 as provident fund, Rs. 154 as medical claim and Rs. 250 as security deposit. The terminal benefits were thus less than Rs. 25000. The list of assets and liabilities and status of the applicant emerging from Annexure A-5 makes it clear that grounds of rejection given in paragraph 3(b) of the reply that the applicant was not reduced to indigent circumstances do not hold validity. The respondents admit that they had received the appeal dated 14.09.88 but did not appear to have considered it because annexures were not received and do not state that the annexures were called for by them.

7. The plea of the applicant contained in her written pleadings that her sons were living separately and were not extending any financial help to her and

Cont...5/-

8/7
// 5 //

should not, therefore, be considered to be a part of her family is valid. Adult sons who have their own vocations and who have set up their own nuclear family units away from the place of residence of the erstwhile family cannot be considered to be a part of family of the deceased. In this case the two sons are on the frige of property line because they have got vocations which give them only casual work and ~~to be~~ cannot be taken in any position to support a joint family.

8. The applicant has raised an issue in the rejoinder affidavit that she has a mandatory right to get compassionate appointment. The applicant has not produced any memorandum of the department of defence to substantiate this claim. The Office Memorandum of the Department of Personnel, however, provides for assistance to a family left in indigent circumstances requiring immediate assistance to tide it over. Norms get established within these parameters in each department for considering compassionate appointment based on examinations of such cases in the past and availability of vacancies so that Article 14 and 16 are not violated.

9. In the light of above discussion, it is considered necessary in the interest of justice to issue direction to Respondent no. 1 to consider any representation which the applicant may send

// 6 //

within a month of date of communication of this order to him and decide the appeal within three months of receipt thereof.

10. The parties shall bear their own costs.



Member-A

/pc/