

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1229 of 1992

Smt. Afasar Begum & Ors. Applicants.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. T.L.Verma, Member-J

The applicants are wife and son of late Irshad Ali Khan Switch Board Attendent (S.B.A.) Garrison Engineer (MES) Military Engineers Services Bareilly Cantt. have filed this application under Section 19 of the Administrative Tribunal's Act for a direction to the respondents to appoint Munawar Ali Khan, applicant No. 2 on compassionate ground in place of late Irshad Ali Khan who died in harness on 3.9.1982 and to quash the appoint of Israque Ali Khan after quashing his appointment.

2. The case of the applicant is that Irshad Ali Khan, who was employed as Switch Board Attendent in the office of Garrison Engineers (MES) Military Engineer Services Bareilly Cantt., died on 3.9.1982 in harness leaving behind him a widow, three sons and two daughters. The only source of income of the family is family pension of Rs. 600/- per month. This, it is stated, is not sufficient to cater the basic requirements of the family of deceased Government servant. The applicant, therefore, is in dire necessity of appointment on compassionate ground to redeem the family from distress. It was stated that the wife of the applicant No. 1 approached the appropriate authority for appointment of her son on compassionate ground soon after the death of her husband as she herself, being a Parda Nashin lady,

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was not inclined to accept the appointment. As the son of the deceased Government servant was minor at that time of ~~of~~ ~~xxxxx~~, Shri Major R.K.Singh, under whom the deceased Government servant was working at the time of his death, made a recommendation to appoint his son in place of his father on his attaining majority. She again made a representation on 5.9.1989 for the employment of her son, applicant No. 2, on compassionate ground. Garrison Engineer (MES) Bareilly Cantt. (respondent No. 6) informed her vide letter No. 070/872/E 1-A dated 22.9.1989 to submit the requisite documents/papers duly completed in all respect for consideration of the case of her son for employment on compassionate vide Annexure A-3. She complied with the direction given by the Garrison Engineer as mentioned above. When no appointment letter was issued even after receiving the requisite documents, the applicant No. 1 pursued the matter and in course of that, sent letter dated 28.11.1991 to respondent No. 6 to appoint her son on a post suitable to his qualification vide Annexure A-4. This was followed by reminders Annexure A-5 and A-6 dated 22.1.1992 and 10.3.1992 respectively. Respondent No. 6 in return, informed applicant No. 1 that respondent No. 6 has already been appointed on compassionate ground with her consent. The case of the applicant is that respondent No. 6 Israque Ali Khan has obtained appointment fraudulently. Hence, this application for the reliefs mentioned in para 1 of the application.

3. The respondents have contested the claim of the applicants inter alia on the ground that employment to Shri Israque Ali Khan, brother-in-law (near relative) of the applicant has already been provided w.e.f. 13.4.1983

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on the request of applicant No. 1 and that the application is barred by limitation.

4. It is not in dispute that once a near relative is appointed on compassionate ground, no further appointment is generally given later, to son or daughter or the widow of the employee on compassionate ground. That being the position of law, this Tribunal cannot issue a direction to appoint the son of the deceased railway servant. So far as the question that respondent No. 6 has obtained the employment by making false representation or practicing fraud is concerned, this also, cannot be inquired into in this forum. At the time of making appointment of a near relative on compassionate ground, generally, bond is obtained from the appointee to look after the family of the deceased Government servant with a panel clause of termination of service in the event, the undertaking given, is not complied with. The proper course in cases like this is to move the appropriate department for terminating the services of the appointee on compassionate ground for non-compliance of the undertaking ^{if any,} given by him to look after the needs of the family of the deceased Government servant. Such an action ^{also} is possible only after an inquiry by an appropriate authority into the allegation. The respondents, however, state that applicant No. 1 Smt. Afasar Begum, widow of late Irshad Ali Khan had applied for employment of her brother-in-law (near relative) vide her application (Annexure CA-2). Annexure CA-2 purports to bear the thumb impression of applicant No. 1. ~~xxxxxx~~ The applicant No. 1 has denied that this letter bears her thumb impression. This Tribunal is not in a position to investigate whether this thumb impression is that of

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applicant No. 1 or not. It was for the department to have made an inquiry into the allegation and take a necessary action on the basis thereof.

5. In the facts and circumstances of the case discussed above and having regard to the fact that brother-in-law of applicant No. 1 had already been appointed on compassionate, no direction to appoint applicant No. 2 again on compassionate ground can be issued. This application is, therefore, dismissed. It will however, be open to the respondents to inquire into the allegation that the respondent No. 6 has obtained appointment on compassionate ground fraudulently and pass necessary orders on the representation of the applicants for appointment of applicant No. 2 on compassionate ground on the basis of the inquiry if any, held. There will be no order as to cost.

Jhijim
Member-J

Allahabad Date: 12.7.94

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