

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
A L L A H A B A D

DATED : ALLAHABAD THIS THE 28th DAY OF JANUARY 1996.

C O R A M : Hon. Mr. T. L. Verma, Member-(J)

ORIGINAL APPLICATION NO. 1376 of 1993.

Prem Narain Sharma, aged about 22 years,
son of late Sri Ram Prasad, resident of
Bhagwan Colony, Devaretha No. II P.O.
Kalwari, District Agra.

.....Applicant.

(BY ADVOCATE SRI NEERAJ UPADHYAY)

Versus

1. District Manager Telecommunications, Agra.
2. Deputy General Manager (Administration)
Telecommunication, U. P. Zone, Lucknow.
3. Union of India, through Department of
Telecommunication, New Delhi.

.....Respondents.

(BY ADVOCATE SHRI ASHOK MOHILEY)

O R D E R (

(BY Hon. Mr. T. L. Verma, Member-J)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed for quashing order dated 23.4.1993 rejecting the representation for appointment of the applicant on compassionate ground, and for issuing a direction to the respondents to appoint the applicant on some suitable post commensurate to his qualification.

2. Shri Ram Prasad, father of the applicant was employed as L.I. under the District Manager (Telecommunications), Kanpur. He died in harness on 31.12.1987. Upon his demise, his widow Smt. Ram Shree Devi submitted an application on 5.8.1988 seeking appointment

.....2/---

of the applicant on compassionate ground, which was minor at that time by relaxing relevant rules. The information sought by the respondents after receiving the application for appointment of the applicant on compassionate ground was duly furnished. The aforesaid representation alongwith necessary information and recommendation of the District Manager Telecommunications was forwarded to the Assistant Director Telecommunications, under letter dated 28.3.1992 (Annexure-3) for necessary action. The respondents, it is alleged, kept the representation pending for no justifiable reason. The mother of the applicant in the meantime ~~by~~ died on 12.4.1993. After protracted correspondences the respondents rejected the request for appointment of the applicant on compassionate ground arbitrarily by ^{non-speaking} order without assigning any reason. The order, rejecting the representation of the applicant, has been communicated by impugned letter dated 23rd April, 1993. Hence this application for the relief mentioned above.

3. The respondents have resisted the claim of the applicant on the ground that two of sons of deceased Ram Prasad were already gainfully employed in the establishment of the respondents and as such the applicant was not entitled to appointment on compassionate ground.

4. We have heard the learned counsel for the parties and perused the record. The provision for appointment on compassionate ground has been made to retrieve the family of a deceased Government servant from financial crises that follows on account of sudden death of the bread-earner of the family. Since appointment on compassionate ground is made as an exception to the general rules that the appointment should be made by open competition, the ^{candidates} ~~applicants~~, for such

-3-

an appointment are required to satisfy certain conditions before being eligible for such appointment. Hon'ble Supreme Court in Umesh Nagpal vs. State of Haryana reported in 1994 (3) Judgments Today page 524 have held that mere death of an employee in harness does not entitle the family to compassionate appointment. The concerned competent authority has to examine the financial condition of the family of the deceased and only ~~then~~ if he is satisfied that the family is in penurious condition, appointment on compassionate ground can be justified.

5. In view of the above settled position of law on the point, we ~~now~~ address ourselves to the question whether the applicant satisfied the conditions essential for appointment on compassionate ground. Two sons of the deceased Ram Prasad were employed in the Telecommunications Department at the time of death, is not in dispute. Learned counsel for the applicant has, however, contended that the elder brothers of the applicant were living separately with their family and were rendering no financial help either to the mother of the applicant or the applicant himself. This fact, it was submitted, was by itself ~~the~~ evidence of the penurious condition of the applicant and his mother. The applicant has conveniently omitted to mention the amount received by the widow Smt. Ram Shree Devi and his sons towards payment of the terminal benefits such as Provident Fund, Gratuity, Leave Encashment etc. It has, however, been mentioned in Annexure-1, that the widow was drawing family pension. The amount of family pension has also not been mentioned. The fact that the mother of the applicant was drawing family pension ~~also~~ leave no room for doubt that she must have drawn other financial benefits as admissible to her according to rules on the death of her husband. This fact, coupled with the fact that two sons of the deceased Ram Prasad were already ~~given~~ *given* *grainfully*

-4-

employment in the Telecommunications Department at Kanpur at the time of the Government Employee died are clear evidence of the fact that the family of the deceased Ram Prasad was not in a penurious condition.

6. In view of the above discussions, I find and held that the applicant has miserably failed to make out a case for his appointment on compassionate ground. This application is accordingly dismissed leaving the parties to bear their own costs.

Ph. Verma
Member-(J)

Pandey/-