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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Allahabad this the 19th day of July 1995.

Original Application No. 293 of 1994

Hon'ble Mr. S. Dayal, Member(A)

Arun Kumar Sonekar,

son of late Banke Lal Sonekar,

R/c. 103/206, Colonelganj,

Kanpur..... A pplicant.
(By Advocate Sri P.K.Bisaria & Sri Shesh Kumar)

Versus

1. Union of India through its
Ministry of Defence,
New Delhi.
2. General Manager,
Ordnance Equipment Factory,
Kanpur.
3. Asstt. Works Manager,
Ordnance Equipment Factory,
Kanpur.

..... Respondents.

(by Advocate Km. Sadhana Srivastava)

(By Hon'ble Mr. S. Dayal, Member(A)).

[Signature]

This is an application under Section 19 of the Administrative Tribunals Act, 1985. The application has been made for setting-aside the impugned order dated April, 1993 placed at Annexure-A-3, rejecting application dated 6.4.1993 for giving ~~the~~ employment to ^{the} applicant and also for a direction to the respondents to appoint the applicant on compassionate

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grounds against ~~the~~^a suitable post, based on his qualifications.

2. The grounds for relief are that the appointment has been denied on arbitrary grounds by non-speaking and cryptic order.

3. The facts of the case are that the applicant's father was working as Chargeman in the Ordnance Equipment Factory, Kanpur on permanent basis and died on 14.1.1993 while in service. He left behind him a daughter and four sons as well as his widow. It is stated that his two first sons namely Sri Ashok Kumar Sonekar and Kishan Kumar Sonekar were living separately from his father and that two youngest sons namely Sri Arun Kumar Sonekar and Sri Shrawan Kumar Sonekar were living with the deceased father and as such were dependent of him. An application was made by the mother of the applicant on 6644.1993 for giving a job on compassionate basis to her son who had done apprenticeship from Ordnance Equipment Factory, and belongs to Schedule Caste community.

4. Annexure-CA-3 is an application of the widow mentioning that Shri Ashok Kumar and Kishore Kumar were living separately even when her husband was alive and that Shri Arun Kumar and Shrawan Kumar both were unmarried and living with her. She has also mentioned that Shri Arun Kumar had done three years apprenticeship in Carpentry in Ordnance Equipment Factory and also knew typewriting and had done his Intermediate.

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5. The respondents in their reply have stated that the deceased government servant had not left behind him any liability of minor son or unmarried daughter. They have stated that the terminal benefit to the family were detailed by Rs. 1,00,000/- by paying Provident Fund assets ^{of} Rs. 5,527/- + D.L.I. ; D. C. R. gratuity Rs. 57,350/- ; C. G. E. IS, Rs. 34,034/- and Rs. 900/- per month by way of pension. In addition to above, D. A. upto 7 years thereafter Rs. 450/- plus D.A. per month till death (Rs. 1860/- p.m. as Family pension + Relief). They have stated that the case of the applicant was examined on the basis of the instructions contained in O. M. No. 14014/6/86-Estt(D) dated 30.6.1987 issued by Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) as amended and clarified from time to time and as circulated by Ministry of Defence vide I.D.No.A/120/12/5/87/D(Estt-I/Gr.II) dated 20.7.1987. It was decided that compassionate appointment could not be offered because the widow had received about Rs. one lac as terminal benefits and had two sons already employed. It has been mentioned that competent authority in this case was the Secretary, Ministry of Defence as two sons of the deceased are employed hence the case did not warrant ^{reference} ~~interference~~ of the case ~~to~~ the Secretary of Defence. It has been stated that the amount of pension and terminal benefits as against the liability of the applicant of Rs. 10/- for a rented house did not warrant this case to ~~the~~ ^{be considered as} one of distress requiring immediate assistance without having

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any earning member in the family.

6. The applicant in his rejoinder-affidavit has stated that the family was in distress after the death of applicant's father and that payment of terminal benefit does not disentitle the applicant from getting job on compassionate ground as the object and purpose of providing the job on compassionate ground is to mitigate the hardship caused on account of death of bread-earner of the family. It was also stated that one of the applicant's brother was employed in L.I. C. as Development Officer but his services were terminated by the L. I. C. on 13.6.94. The applicant has stated that the necessity for compassionate appointment arises from the date of death of bread earner as his mother and children are dependent on the income of the bread earner.

7. Sri Shesh Kumar, learned counsel for the applicant was heard. He stated that the applicant's claim was based on the judgment in C. A. No. 89 of 1994 (Robin Kumar Karmkar vs. UOI & Others) decided on 19th Dec. 1994. The judgment in the case of Narendra Kumar Chhadha reported in 1994, Judgment Today Vol. II page 94 and Sri Umesh Kumar Nagpal reported in 1994(3) A. T. C. page 525 (Supreme Court) were cited, in which the terminal benefits were allowed to the tune of Rs. 18,000/-.


8. Km. Sadhana Srivastava was heard for the respondents. The learned counsel for the respondent

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mentioned that Annexure-A-1 is only a communication by which the decision of the competent authority which has passed a reasoned order in the case has been communicated. She has mentioned that the case of Umesh Kumar Nagpal is not applicable in the present case. She also stated that in the case of L.I.C. Vs. Asha Ramchandra Ambekar only direction could be given for consideration of case of applicant for compassionate appointment and no appointment could be made by the Tribunal. She also stated that the members are bread earners therefore, no relief can be given by this Tribunal.

9. That three issues raised by the applicant are that compassionate appointment is a matter of right in case the bread earner of a family dies in harness leaving any non-earning dependent and no other factor is relevant in rejecting an application made to the respondents for compassionate appointment. Secondly, in this case, the employed brothers of the applicant are said to be living separately and should be disregarded in considering the applicant's case.

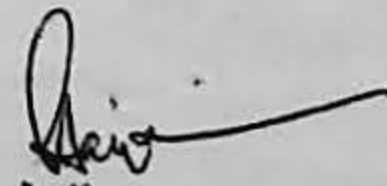
10. The applicant has not established that compassionate appointment is a matter of right. He has not established that the Government has an obligation to give a compassionate appointment to a dependent of an employee who died in harness. The ratio of Nagpal's case (Umesh Kumar Nagpal Vs. State of Haryana and Others (1994) 27.A.T.C. 537., is applicable to this case. The true test in such cases is that the family should be left indigent circumstances and should be in an immediate need of assistance. An application of the twin test given above to this case shows that the applicant has not been given compassionate appointment because the income of the family on the death of the bread winner could be assessed at Rs.1660/- by way of pension and another sizable amount by investment of the terminal benefits which would show that the family was not left in indigent condition and it also shows that it was not in need of immediate assistance.



11. It is seen from the pleadings of the application that applicant is guided by the misconception that there is a rule which entitles the dependent of an employee dying in harness to receive employment under the government as a matter of right. The applicant has produced no such rule. There are certain administrative instructions which suggest that the government out of compassion may offer a limited number of the lowest categories of direct recruitment posts in Group C or D in relaxation of direct recruitment rules to dependents of such employees whose families are left in indigent circumstances after death of the sole breadwinner and are in need of immediate financial assistance. Since the posts which can be offered in a recruitment year for compassionate appointments are likely to be very few and far between and the objective is to assist only those families which are left indigent and require immediate assistance, a procedure for verification through a local enquiry of the veracity of the claim made by the family regarding its indigence is necessary after prima facie it is decided to give a job. The police verification in this case should consist not only of character and antecedents but also of the veracity of claims regarding indigence through a suitably designed proforma. The verification should be possible if enquiry is made in the local area where the applicant resides. It will also be possible for the Government to give a self-contained reply with reasons for acceptance/rejection of the claim of the applicant if information given by the applicant is verified through a field agency.

There is no reason to interfere with the order of the respondents in this case. Therefore, the application is dismissed.

There shall be no order as to costs.


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