

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 21st day of August, 1998

Original Application No.414 of 1994

District : Kanpur Nagar

CORAM:-

Hon'ble Mr. S.K. Agrawal, J.M.

1. Dinesh Kumar Son of Late Shri Bhagwan Din
R/o 14, Sarai Maswanpur P.O. Rawatpur, Kanpur Nagar.
2. Ram Rati Widow of Late Bhagwan Din
R/o 14, Sarai Maswanpur P.O. Rawatpur,
Kanpur-Nagar.

(Sri V.B. Tewari, Advocate)

.Applicants

Versus

1. Union of India through Joint Secretary
Incharge of Administration of Secretary
in the Ministry of Defence, New Delhi.
2. Commandant, Central Ordnance Depot,
Kanpur.

(By Sri N.B. Singh, Advocate)

.Respondents

O R D E R

By Hon'ble Mr. S.K. Agrawal, J.M.

1. In this OA, the prayer of the applicants is to direct the respondents to appoint the applicant no.1 on compassionate
2. In brief, the facts of the case as stated by the applicants are that the father of the applicant no.1 Sri Bhagwan Din was working as labour in the Central Ordnance Depot, Kanpur who expired on 11-12-1992 leaving behind his widow Smt. Ram Rati and 3 sons, namely, Mool Chandra, Phool Chandra and Ramesh and two daughters, namely, Smt. Kamla and Smt. Shakuntala. It is submitted that all the brothers and sisters of the applicant are married. The elder brothers Mool Chand and Phool Chandra are in service and live separate with their family since the life time of the father of the applicant no.1. The sisters are married and they are with their in-laws. The third elder brother Sri Ramesh Chandra



is living separately since the life time of his father who is serving in a private factory and whose relations were also broken with his father. It is submitted that on the death of Bhagwan Din, his widow Smt. Ram Rati approached the Comdt COD Kanpur for giving the employment to her younger son Dinesh Kumar, and thereafter submitted so many applications details of which are given in the O.A. but with no consequence. It is submitted that there is no earning member in the family of the deceased and the widow of the deceased requires immediate assistance and she is still in indigent circumstances and the decision of the respondents to refuse to employ the applicant no.1 is arbitrary, illegal and with extraneous considerations. Therefore, it is requested that the respondents be directed to appoint the applicant no.1 on compassionate ground in place of his father.

3. A counter was filed by the respondents. In the counter affidavit, it is admitted that Late Bhagwan Din died on 12-11-1992 and it is also admitted that consequent upon death of her husband, Smt. Ram Rati applied for employment of her fourth son Sri Dinesh Kumar on compassionate grounds. It is submitted that Ram Rati has been receiving family pension at the rate of Rs.497/- per month w.e.f. 13-11-1992, and she was also paid Rs.70,186/- as retiral benefits on account of death of her late husband Bhagwan Din. It is also submitted that the verification from civil authorities, Kanpur, reveals the condition of the family is not indigent. There are four earning members in the family and the widow is in receipt of family pension @Rs.910/- per month w.e.f. 13-11-1992 and it is stated that the total income of the deceased family comes to Rs.6510/- per month which is quite enough to pull on a middle class family. Therefore, on the basis of the averments

made in the counter the respondents have requested to dismiss this OA with costs.

4. RA has also been filed in which it was reiterated that all the three sons of the deceased Bhagwandin are living separate from the time of their father and there is no support by them to the applicant no.1 and the widow of the deceased and still the condition of the applicant no.1 is indigent.

5. Heard learned counsel for the applicant and learned counsel for the respondents and perused the whole record carefully.

6. Learned counsel for the applicant has vehemently argued that the respondents must have considered the case of the applicant no.1 for compassionate appointment in view of his indigent circumstances which are still existing. In support of his contention he has referred to to the undermentioned cases:-

- (1) Rishalo and another Vs. Union of India and others, 1995(5) SLR P.31, Principal Bench New Delhi.
- (2) Bhagwanji Manabhai Khatana Vs. State of Gujarat and Ors., 1995(5) SLR 34.
- (3) Raghvendra Kumar Singh V s. Union of India & Ors, SLR 1993(3) P.313.
- (4) Mrs G.B. Yerwa & Anr Vs. Union of India and Ors., SLR 1996(3)(CAT) P.603.

7. In 1995(5) SLR P.31 Rishalo and another Vs. Union of India and Ors, it was held that request for appointment on compassionate ground cannot be rejected merely on the ground that the family had received the benefits under various schemes. Departments under obligation to see other factors i.e., financial condition of family, size of family, the children where out the support the family and other extended needs of the family. Balanced view to be taken

by the Government including the wish of widow regarding the choice of member of the family to be appointed.

8. In Bhagwanji Monabhai Khatana Vs. State of Gujarat, 1995(5) SLR 34, it was held that no justification in refusing the appointment to the petitioner on the ground that his elder brother is also earning and by including his income into the income of family of deceased, the petitioner is not entitled to compassionate appointment.

9. In SLR 1993(3) P.314 - Raghavendra Kumar Singh Vs. Union of India & Ors, it was held that when there are rules and departmental instructions to appoint persons on compassionate grounds in the event of the family being in distress, or in some other circumstances, then these circumstances have to be taken into consideration and the authorities after applying their mind must pass a reasoned and speaking order.

10. In Mrs. GB Yerwa & Anr Vs. Union of India and Ors., SLR 1996 (3)(CAT) P.603, it was held that compassionate appointment cannot be denied merely because the family has received under welfare schemes.

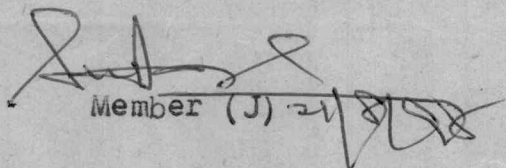
11. In the instant case, it is quite clear that the two elder sons of the applicant no.2, Mool Chandra, Phool Chandra are in service and living separate since the life time of the father of the applicant no.3. The 3rd elder son Ramesh is also working in a private factory who is also living separate since the life time of his father and his relations were also strange with his father as per the claims made in the application to which there is no contradiction. Two daughters are married and they are living with their in-laws. It also appears that Dinesh Kumar Applicant No.1 is only living with his mother, who works on daily wages with whenever work is available for him.

12. The report of the civil authorities, Kanpur dated 18-5-1993 also makes it clear that Shri Dinesh Kumar is a labourer and lives with his mother, who is older in age as per this report. I am of the opinion that indigent conditions still exists in the family because there is no support to the widow in her old age except Shri Dinesh Kumar, who is working as labourer and gets work whenever work is available for him. Merely because three sons of the petitioner are in service or the widow has received retiring benefits is no ground to refuse to the applicant no.1 for compassionate appointment especially when all the three sons are living separate since the life time of the father and do not support the applicant at all. The applicant further explained in the RA that out of Rs.70186/- paid to the applicant after the death of deceased Bhagwan Lin, Rs.65,000/- were spent immediately towards payment of loan which was borrowed for the treatment of the deceased Bhagwan Lin.

13. In view of the explanation given by the applicant in the rejoinder affidavit and in view of the averments made above, I am of the opinion that the applicant has a case in his favour for consideration of appointment on compassionate ground.

14. Therefore, this OA is allowed. The respondents are directed to consider the case of the applicant no.1 for compassionate appointment within a period of three months from the date of passing this order.

15. No order as to costs.


Member (J)

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