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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Allahabad this the 23rd day of February 1995.

Original Application no. 645 of 1994.

Hon'ble Mr. S. Dayal, Administrative Member.

Dina Kumar Ale, a/a 30 Yrs, S/o Sri R.K. Ale, r/o Bungalow no. 13/63 Lalitpur Road, Jhansi.

... Applicant

C/A Shri R.K. Nigam

Versus

1. Union of India through Secretary Defence, Ministry of Defence, Govt. of India, New Delhi.
2. C.W.E., MES Jhansi.

... Respondents

C/R Shri C.S. Singh

OR D E R

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

This is an application under section 19 of the Administrative Tribunal Act. The application is for compassionate appointment of the applicant, who is son of a deceased Chaukidar in the Office of the Commander, Works Engineer, M.E.S., Jhansi.

2. The facts of the case are that Shri Ram Kishan Ale, working as Chaukidar in the office of C.W.E.,

M.E.S., Jhansi, died in harness on 22/06/1985. The deceased left behind his widow, who is working as an 'Aaya' in the Military Hospital, Jhansi, and the applicant claims that:-

- i. She is not supporting him.
- ii. His brother Madhu Kumar is an oil engine driver in M.E.S. Jhansi, and the applicant claims that he is not supporting him.
- iii. Another brother Shri Sudan Kumar, working as a Mate in the irrigation department and the applicant claims that he is also not supporting him.
- iv. His thired brother Shri Raghu Kumar, is a labourer in M.E.S., and the petitioner claims that he is not supporting him.

3. The applicant himself was born on 03/08/1962. The father of the applicant died on 22.06.1985, and the applicant claims to have moved a formal application for compassionate appointment. The application is said to have been rejected by an order dated 06.01.94.

4. The grounds on which compassionate appointment is claimed are, that he was the sole dependent of his father who died in harness, that the order of rejection dated 06.01.94 was arbitrary and illegal, that the request of the applicant for compassionate appointment could not be turned down if the other members of the deceased's family were serving, that in the case of Shri K.B. Gupta (OA no. 1924/1925), this Tribunal allowed the petition at the time of hearing for admission. The judgement of the Hon'ble Supreme Court in A.I.R. 1989, S.C. 468, warrants the acceptance of

the application in limine, without inviting any counter, and that his mother and brother are not supporting him.

5. The applicant has cited Smt. Kamla Rani Mehrotra and another Vs. Union of India (1989-2-U.P.L.B. & E.C.-77-Tri.). The premise on which the judgement is based is that son or daughter of a Government servant, dying in harness, shall be entitled to compassionate appointment, in case there is no other earning member in the family. It is also stated in the judgement that the Secretary of the department before approving the appointment, has to satisfy himself about the justification in granting compassionate appointment having regard to the number of dependants, the assets and liabilities left by the Government servant, the income of the earning members, and the fact that the earning member is residing with the family of the deceased government servant or not. The learned Bench has cited another judgement given by the Tribunal on 26.2.88 in O.A. no. 135 of 1988, in which compassionate appointment was ordered to be given to one of two unmarried sons, when a government servant died leaving a widow, four sons and three daughters. The Special Leave Petition filed by the Union of Government against the said judgement and order was dismissed by the Hon'ble Supreme Court. The judgement of the Bench also quotes a recent pronouncement of the Hon'ble Supreme Court, in which the Supreme Court held that compassionate appointment should be provided immediately to redeem the family in distress, and if no suitable post exists, then a supernumerary post should

be created to accomodate the applicant.

6. The learned counsel for the applicant was heard. He based his claims on the judgement mentioned above.

7. The cases cited by the learned counsel for the applicant are not in para materia with this case. In this case, both the parents of the applicant were having independent employments. On the death of one of the parents, the other parent was still in employment and was in a position to support the applicant. The premise on which the counsel for the applicant has based his claim that the applicant was being supported only by one of the parents, and that he was not being supported by mother, and therefore, he should be given compassionate appointment, is not tenable. The applicant is more than thirty years of age. His father died nearly nine years back. The request for compassionate appointment made in year 1985 was already rejected in the same year on the ground that the widow and three sons were already employeed. The ground of rejection is a legal and valid ground in so much as the family was not left in indigent circumstances because of the death in harness of the applicant's father. The letter dated 6.1.94 (Annexure-2), which is now being challenged, is only in response to an interview taken by Smt. Madan Maya, widow of Shri R.K. Aley, on 4.1.94, and informs her of the decision taken in 1985. The case of Shri K.B. Gupta in O.A. no. 1924 of 1983, ^{which has been cited}, was decided by this Tribunal giving a direction to the respondents to consider

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and dispose of the representation of the applicant for his appointment on compassionate grounds in the light of law laid down by the Hon'ble Supreme Court by a reasoned and speaking order within three months. This case too is not a para materia with the present application because the consideration in that case was deferred on the ground that no vacancy was available just then and the applicant was informed that the case would be considered in its turn when a vacancy became available.

8. There is no valid ground for claiming the relief of appointment on compassionate grounds in this case. The application is, therefore, rejected.
9. There shall be no order as to costs.


Member-A

/pc/