

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

Dated this the 4th day of March, 1998

Hon'ble Mr. S. Dayal (Member-Administrative)

ORIGINAL APPLICATION NO. 698/94

C/A Sri O.P.Gupta

## Versus

1. General Manager, Ordnance Parachute Factory,  
Napier Road, Kanpur-4.

2. Ordnance Factory Board, Government of India,  
Ministry of Defence, Auckland Road  
CALCUTTA.

C/R Km. Sadhna Srivastava

## ORDER

By Hon'ble Mr. S. Dayal AM

This is an application filed under section 19  
of the Administrative Tribunals Act 1985.

2. The applicant has come to this Tribunal for direction to the respondents to grant compassionate appointment to the applicant on a post for which he is suited as per his educational qualification.

3. The facts as mentioned are that the father of the applicant who was working as Permanent Tailor in the office of the General Manager, Ordnance Parachute Factory, Napier road, Kanpur died in harness on 17.7.1988 after a service of 26 years. He was survived by his widow, 2 sons and one daughter. The family was left in dire state after the death of applicant's father. The applicant's mother sought compassionate appointment for the applicant which was rejected by the respondents vide their order communicated on 4.4.1991. The applicant thereafter made representation to the respondents on 22.6.1992, which was forwarded to the Ordnance Factory Board, Calcutta and then again vide letter dated 8.12.1993, request of the applicant for compassionate appointment was rejected.

4. Arguments of Sri O.P.Gupta for the applicant and Km. Sadhna Srivastava for the respondents have been heard and pleadings have been taken into account. The main ground stressed by the learned counsel for the applicant is that both the orders rejecting the compassionate appointment of the applicant are non-speaking orders and do not show any reason for rejection of the case of the applicant. He mentioned that whatever has been stated in the C.A. by the respondents is an after-thought and was known to the applicant earlier. The learned counsel for the respondents has drawn my attention to the case in which I had held that grant of compassionate appointment is an administrative decision and the ground of rejection need not to be communicated. Even <sup>if</sup> the grounds of rejection are subsequently found to be adequate for rejection of request of compassionate appointment, the applicant cannot be granted the relief asked for in the O.A. filed in the Tribunal.

5. It is necessary that each case should be considered on merits and it is to be seen whether adequate reasons exist which could show that the case of the applicant for compassionate appointment was rejected on valid grounds. In the present case, 2 reasons because of which the application for compassionate appointment of the applicant was rejected are (a) that one of the son of the deceased employee was employed and (b) that the widow has been granted family pension. The learned counsel for the respondents has annexed orders of Ministry of Personnel, public grievance and Pension dated 30.6.1987 which regulate grant of compassionate appointments. In para 4-E of this office memorandum, it has been mentioned that in deserving cases even where there is an earning member in the family, the son of the deceased employee can be considered for compassionate appointment with the prior approval of the Secretary of the Ministry of Defence, if the family is in distress. It has also been mentioned in the same para that number of dependents, assets and liabilities left by the deceased government servant, and the income as well as the liabilities of the earning member and whether the earning member is residing with the family or not should be taken into account.

6. In the present case, the applicant has averred that the elder son was living separately even during the life time of the deceased employee and was not looking after the family of the deceased employee. This, in other words means that the eldest son left the family and ceased to be a member of the family and other members of the family remained together till the time of death. Therefore, the employment of the eldest son would not bar the claim of the applicant for compassionate appointment in the present case.

7. The respondents themselves in their reply have shown the number of members of the deceased employee's family. They have shown the widow, 3 sons and one daughter. This number includes the son who is employed and who is considered to be living separately from the family. This leaves the widow, 2 sons and one daughter (all adults) who are dependents of the deceased employee and have to be taken care of from the meagre pension which the widow is receiving and which is inadequate considering the number of dependents.

8. Since there is a provision that in such a case, compassionate appointment can be considered with the prior approval of the Secretary of the department concerned, the learned counsel for the respondents was asked whether this case was put up to the Secretary of the department. The learned counsel for the respondents has produced a copy of the letter of the Desk Officer of Ministry of Defence, Director General/Ordnance Factory Board dated 20.11.1990 in which it has been mentioned that case of the applicant was similar to another case which was sent for the prior approval of the Secretary of the department and, therefore, the request for compassionate appointment of the applicant cannot be allowed. Language of this communication shows that the case of the applicant was not submitted to the Secretary of the department although it had been forwarded by the Director General, Ordnance Factory Board and was decided at a lower level.

9. In view of this situation, the respondent no.3 who is the Secretary, Ministry of Defence in this case is directed to consider the case of the applicant for compassionate appointment within 4 months and pass order after considering the facts and circumstances of the case. Orders rejecting the claim of the applicant dated 4.4.1991 and 8.12.1993 are set aside.

10. There shall be no order as to costs.

*Shauq*  
Member (A)

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