

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 29th day of January 1996.

Original Application no. 103 of 1994.

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

Vijai Shankar, S/o Late Shri Maikoolal, R/o 120, Kazikhera, Kanpur.

... Petitioner

C/P Shri Vinay Khare.

Versus

1. Union of India through Director General of Ordnance Factory, 10-A Auckland Road, Calcutta.
2. Addl. Director General, Ordnance Factory, O.E.F., Hqrs. E.S.I.C. Building, Sarvodaya Nagar, Kanpur.
3. The General Manager, Ordnance Factory, Phool Bagh, Kanpur.

... Respondents.

C/R Km. Sadhana Srivastava.

ORDER

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

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

2. The applicant seeks following reliefs through this application:-

i. Direction to the respondents to appoint

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the applicant on compassionate grounds.

- ii. Quashing of the order dated 16.07.89, 29.11.91 and 05.03.91 passed by respondent no. 3
- iii. Direction to the respondents to decide the representation dated 27.03.91 in accordance with law.

3. The case of the applicant is that his father died on 23.04.89 at the age of 52 years while in service. Out of his issues two sons namely Shri Ram Shanker aged about 39 years and Shri Laxmi Shanker aged about 31 years were living separately from the family in the life time of the deceased employee. Three other sons were Shri Girja Shanker, Shri Vijai Shanker, the applicant and Shri ~~was~~ Udai Shanker who ^{was} a student. The respondents have not given compassionate appointment to the applicant even though his family was left in indigent circumstances and have replied the representations of the applicant for compassionate appointment in a summary and non speaking manner. Last communication which was a notice through an advocate was not replied to by the respondents at all. Learned counsel for the applicant during the hearing has sought relief because the representations of the applicant were decided in a non speaking manner which was an arbitrary act of the respondents. Besides the applicant was not given compassionate appointment, while one Shri Koshy the dependent of late Shri K.J. Koshy was given compassionate appointment, although he was in a less indigent situation than the applicant. Learned counsel for the applicant also stressed that the respondents are yet to reply to the notice in which discrimination was alleged against the

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applicant in not giving him compassionate appointment. Learned counsel for the applicant has cited the Sushma Gosai Vs. Union of India and others, AIR 1989 SC 1976, case of Smt. Phool wati Vs. Union of India and others, AIR 1991 SC 461 and the judgement of Allahabad High Court in writ petition no. 45858 of 1992 delivered on 22.11.95.

4. Learned counsel for the respondents has drawn our attention to paragraph 13, 15 and 18 of the counter affidavit. In paragraph 13 it has been mentioned that the labour officer has given a report dated 18.06.89 in which he has mentioned that all the three major sons were employed and the daughters were married and only minor sons and the widow were unemployed. It is further mentioned in paragraph 15 that widow has been paid the terminal benefits of more than Rs. 80,000/- and gets family pension of Rs. 1,360/- per month and, therefore, the family was not left in indigent circumstances specially in view of the fact that the major sons were employed. As regards the employment given to the dependent of Shri K.J. Koshy, the appointment was given because the family was left in indigent condition because Shri K.J. Koshy was ill and suffering from cancer, ^{from} which kept him away/duty and put his family in critical financial condition. Learned counsel for the respondents also pleaded that the application is time barred under section 20 of the Administrative Tribunal's Act, as the death occurred in 1989 while representation was made in 1994.

5. I have consider the judgement cited by the

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learned counsel for the applicant. The court had already found that compassionate appointment to Miss Susma Gosai and Smt. Phoolwati was admissible under administrative instructions of the Government and its directions are, therefore, different from the present case in which the indigence of the family is in question. Third case cited by the learned counsel for the applicant is also different from the case before us. In that case none of the dependents of the deceased employee were employed and a question regarding date of enforcement of provisions for compassionate appointment to the employee of Zial Parishad was raised while in another case compassionate appointment was given in similar circumstances.

6. This leaves for consideration only question of discrimination which is placed by the learned counsel for the applicant. Although the respondents have not furnished any reply to the legal notice given to them, they have come out with facts in their CA. Since father of the person who given employment on compassionate ground was suffering from cancer and had to miss his duty and forego his pay etc., that case also stood on a different footing than the one before us.

7. Under these circumstances I find no merit in the application regarding the eligibility of the applicant for compassionate appointment or allegation that he was discriminated against as compared to the dependent of late Shri K.J. Koshy.

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8. The application for compassionate appointment
is, therefore, rejected. There shall be no order as to
costs.


Member-A

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