

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Allahabad this the 10th Day of December 1996

Original Application No 641 of 1995

Hon'ble Mr. D. S. Baweja AM

Km Munni Pant daughter of Late Shri L.D. Pant
Now Smt. Munni Bhat Wife of Shri Madhav Bhat.
C/o Shri R.C. Kapree Advocate, Village Rai
District Pithoragarh

C/A Shri J. C. Pandey Applicant
Versus.

1. Union of India through The Engineer in Chief
Kashmir House Army Headquarter, New Delhi
2. Engineer Branch (E.I C-2) Headquarter
Central Command, Lucknow
3. Chief Engineer Bareilly Zone, Saeiatra
Bhawan Station Road
4. Adm. officer, Headquarter, Commander
Works Engineer (Hills) Pithoragarh

C/R Km. Sadhana Srivastava Respondents

ORDER.

Hon'ble Mr. D. S. Baweja AM

Through this application, the applicant has

prayed for quashing the orders dated 19.11.92 and 28.1.93 rejecting the claim of the applicant for Compassionate appointment and to appoint the applicant as Mazdoor on Compassionate basis.

2. Since the pleadings were complete at the admission stage, with the consent of the Counsel of both the parties, it was decided to hear the case for final disposal at the stage of admission.

3. The applicant's father Shri Lecladhar Pant while serving as chowkidar, Military Engineering Service (M.E.S) in G.E 871 E E.W.S. Cantt of 56 APO, Kanam died on 19.11.81 when in service. The applicant claims that she was the only child and minor at the time of death. Her mother had died earlier. After attaining the age of majority, she applied for Compassionate appointment vide application dated 30.7.1987. Thereafter she sent several reminders. To one of her letters, a reply dated 6.3.89 was received from Commander Works Engineer conveying that her case had been referred to higher authorities. She again represented on 15.6.89. Chief Engineer Bareilly Zone while endorsing copy of her letter dated 16.1.1990 advised that her name is at Serial No 16 of the waiting list. She kept waiting thereafter and finally she received a letter dated 28.11.92 which is impugned in ^minforming

that her case for Compassionate appointment has not been considered by the higher authority.

Since she did not get any letter from the higher authority, she again represented on

21-1-93 and got a reply dated 28-1-93

reiterating^{at} the earlier decision. Thereafter she

moved a claim petition before Consumer Protection

Forum. This petition was rejected vide order

dated 28-5-1993 for being not maintainable. This

application has^{then} been filed on 5-7-95

4 The respondents have opposed the application as being not maintainable by filing Short Counter.

It is admitted that the applicant who was widow at the time of death applied for Compassionate

appointment in 1987 on attaining the age of

majority. The applicant was the only surviving

member of the deceased employee and she

is also now married. After marriage she

cannot claim to be the dependent of the

deceased employee. Further in view of

Hon'ble Supreme Court judgements, Compassionate

appointment cannot be claimed as a matter of

right. Thus the application is not maintainable

and deserves to be dismissed

5. The applicant has filed rejoinder reply

to the Short Counter reply reiterating that

averred in the application. The applicant has

further submitted that when the application

for Compassionate appointment was made in

1987, she was unmarried. After waiting for seven years, she was compelled to marry. For compassionate appointment her status in 1987 is to be taken into consideration. She was well within the meaning / definition of dependent and hence eligible for compassionate appointment.

6. Heard the learned Counsel for the parties.

I have gone through the material placed on record and carefully considered the pleadings made during the hearing.

7. From the averments made by the either side, it is admitted fact that the applicant applied for the job in 1987 after attaining the age of maturity in and she got final reply on 28.11.92 reflecting her request.

She married subsequent to making application dated 30.7.87 for appointment.

She is also the only traceable heir of the late father.

The respondents have opposed the application on the plea that after marriage the applicant is no longer dependent of the deceased government servant Sh. Leeladhar and as such not eligible for compassionate appointment. On the other hand ~~that~~ the applicant has strongly contended that at the time of making application in 1987 on attaining the age of maturity, she was unmarried and her case is to be considered with reference to this status. On perusal of the letters dated 19.11.92 (A-1) and 28.11.93 (A-2),

I find that the case of the applicant has been considered on merit and not on the basis that she had got married. Respondent appears to have advanced the plea of marriage in the Counter reply after the disclosure about the marriage in the application.

The applicant has not disclosed the date of marriage.

In none of the representations, I find any reference to her marriage. There is no averment with regard to informing the office about her marriage.

From these facts it could be inferred that

the decision conveyed vide letter dated 19.11.92 (A-1) was not ~~biased~~ biased by her marriage. Therefore the plea taken in the rejoinder and strongly advocated during hearing that applicant's case is to be considered with reference to her status in 1987 has no merit.

8. The applicant made a representation for Companionate appointment on 30.7.1987. The request was turned down vide letter dated 19.11.92. Thereafter she filed a claim petition before Consumer Protection Forum which was dismissed on 28.5.93 as not being maintainable. This application has been filed on 5.7.95. The scheme of providing Companionate appointment has been laid down to mitigate hardship due to death

(8)

of the bread winner in the family. The purpose of the scheme is not to provide job opportunity which can be availed at anytime in future after several years. In the present case, the applicant made request in 1987 and the Department turned down the request only in 1992. It is acceded that the respondents ought to have dealt with the matter expeditiously. However the applicant has also not shown the diligence if she was in dire need of job to support her, then when the matter was being delayed by the Department, legal remedy could have been sought. Tribunals are set up to seek legal remedy when the Department fails to act or the employee is aggrieved by the decision. Law does not expect the aggrieved person to keep quiet for several years and then approach for relief. Even after rejection of the request in 1992, the present application has been filed after 3 years. These facts lead to infer that the applicant was not seeking job on Compassionate ground to take over the business on account of the death of her father but employment after attaining the age of eligibility.

In this connection I will refer to views expressed by the Honble Supreme Court on the subject matter of Compassionate appointment.

~~Set~~ In the judgments detailed below

- (i) Smt. Sushma Gosain & others vs UOI. 1989 (4) SLR 327
- (ii) Umesh Kumar Nagpal vs State of Haryana. 1994 (2) SLR 677.

I also cite the recent judgement of Apex Court
 State of Haryana vs Rani Devi 1996(4) SLR 505
 wherein it is held that the appointment on
 compassionate ground cannot be made after lapse
 of reasonable period and there is no vested
 right which can be exercised at anytime in
 future. As stated earlier, the case of the
 applicant has been considered on merit and
 keeping in view what is held in the judgements referred
 to above, I find no ground for judicial interference.

9. In view of the above considerations, I
 find 4- no merit in the application and
 the same is dismissed accordingly. No order as
 to costs

S. R. Singh
 Member (A)