

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

DATED: THIS THE 16TH DAY OF OCTOBER 1997

CORAM: SINGLE MEMBER BENCH OF HON'BLE MR.S.DAS GUPTA AM

ORIGINAL APPLICATION NO. 779/95

Km. Laxmi Kashyap adopted daughter of  
Late Heera Lal, resident of J-56/2  
Chungighar colony, Cantt. Kanpur- - - - - Applicant

C/A Sri Shesh Kumar

Sri P.K.Bisaria

## Versus

1. Union of India through its Secretary (Defence), New Delhi.

## 2. General Manager.

Ordnance Equipment Factory,

C/R Sri N.B.Singh

Order

By Hon'ble Mr. S. Das Gupta AM

This application has been filed by Kumari Laxmi Kashyap seeking appointment on compassionate ground quashing order by which her request for such appointment was rejected.

2. The applicant has claimed that she was adopted by Late Heera Lal who was an employee in Ordnance Equipment Factory, Kanpur. As her adoptive

father has died in harness, she made a request for her appointment on compassionate ground. It has been further stated that she is unmarried and there is none else to provide her livelihood and, therefore, it was obligatory on the part of the respondents to provide assistance in the form of compassionate employment. However, her request has been rejected on the ground that she will be receiving Rs.60,752/- as the terminal benefits and also because there is no one else in the family. Hence this application.

3. The respondents have stated in the counter affidavit that the applicant is actually the niece of the deceased employee as would be evident from the nomination paper submitted by him, copy of which is at annexure CA-4. They have further stated that the applicant is not legally <sup>adopted</sup> the daughter of the deceased employee. Moreover she would be receiving Rs.60.752/- as the terminal benefits and this amount is considered sufficient for her. Therefore it is not a fit case for grant of compassionate appointment.

4. The applicant has filed a rejoinder affidavit in which she has reiterated her contentions in the O.A. She has further stated that sum of Rs.60.752/- which she would be receiving cannot be said to be sufficient in these hard days.

5. Heard learned counsel for both the parties and perused the pleadings on record carefully.

6. It is now settled law that compassionate employment cannot be claimed as a matter of right. No such employment can be given merely because of the death of the employee in harness. It is to be established that the family which is left behind <sup>is in</sup> ~~has any~~ such financial

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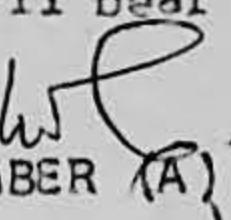
distress that it requires immediate assistance in the form of employment to the widow or one of the ward. This view has been taken by the Hon'ble Supreme court in the case of Umesh Kumar Nangpal Versus State of Haryana 1994 SCC ( L & S ) 930 and also in other subsequent cases.

7. In the case before me, there is no dispute that the deceased is not survived by any one else that the applicant who claims to be the adopted daughter. Such a claim is itself disputed. I have seen that the deceased employee had filled a nomination form in which he had indicated the applicant as his niece. This nomination was made in the year 1994. The deed of adoption which has been filed by the applicant, however, indicates that the applicant was adopted in 1980. Had that been so, there would have been no occasion to indicate that the applicant was his niece in 1994 i.e. 14 years after the adoption. If it casts doubt in the mind of the respondents regarding the validity of the adoption, they can hardly be faulted. Moreover, it is not disputed even if the applicant is the adopted daughter of the deceased employee, that there is none else in the family to be supported. The enquiry regarding the financial position of the family is to be done by the administration. After taking into consideration the quantum of terminal benefits payable to the applicant, the administration has decided that it is not a case where financial assistance is required in the shape of compassionate employment. It is not for the Tribunal to make a roving enquiry and substitute its own findings for the findings of the administration in such matters. Therefore, whether or not the applicant was the legally adopted daughter

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of the deceased employee or not, in view of the fact that financial distress has not been established, the question of considering her compassionate employment does not arise.

8. In view of the foregoing, I find no merit in this application and the same is accordingly dismissed. Parties shall bear their own costs.

  
MEMBER (A)

SQI