

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 818 of 1999.

MONDAY, THIS THE 28TH DAY OF OCTOBER, 2002

HON. MRS. MEERA CHHIBBER, MEMBER-J

Siddharth sankar Upadhyay,

s/o Late Shri ^Bphola Nath Upadhyay,

r/o Gram and post Dariyavaganj,

Dist:- Jaunpur.

... ..Applicant.

(By Advocate:-Shri B.N.Chaturvedi)

versus

1. The Chief post Master General
Department of posts,
Lucknow.
2. The Director General posts,
New Delhi.
3. Union of India through Ministry
of communication,
New Delhi. Respondents.

(By Advocate:- Shri M.B.Singh)

O R D E R (ORAL)

Hon'ble Mrs. Meera Chhibber, Member-J

By this O.A, the applicant has challenged the order dated 19-6-1998 whereby he has ^{been R} informed that ^{his R} ~~the~~ case of compassionate appointment was considered by the Circle Selection Committee and same has been rejected on the following grounds:-

- "
1. Adequate terminal benefits paid.
 2. Income from other sources is Rs. 4800/-.
 3. One son is already in service.
 4. Family not considered in indigent condition. "

2. He has further sought a direction to the respondents to provide appointment to the applicant on compassionate grounds immediately. The applicant's case is that after the death of his father in the year 1991 he had applied for compassionate appointment because the family was not having sufficient means to

R

survive. The elder brother is living separately with his own family and has also given his consent by way of an affidavit to give appointment on compassionate ground to the applicant, affidavits are annexed as Annexure No. II and III ^{with B} of O.A. The applicant has further submitted that he has passed intermediate in the year 1989 and there is a justified case for grant of compassionate appointment. In support of his claim he has relied on Government of India instruction dated 28-12-1998 wherein in para 10 it is stated that in deserving case even where there is already ^{an} earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department (page 51 to 55 with the counter affidavit).

3. The respondents on the other hand have ^B opposed the O.A and have stated that compassionate appointment can not be sought as a matter of right and since committee has come to the conclusion that the family was ^{not} living in a financial distress condition and since it was seen that the family had been given an amount of Rs. 1,36,963 as terminal benefit, an amount of Rs. 2732/+DA is being given per month as family pension. The family was also getting agriculture income to the tune of Rs. 4800 per annum and one of the son was already in the Government service. The daughter of the deceased was already married, therefore the ~~same~~ ^{applicant} ~~of these cases~~ ^{deserves} deserves grant of compassionate appointment. As ^{per} as the said ~~period~~ ^{the} circular/instruction of Government of India are concerned the opening sentence itself says it is only in deserving case that the compassionate appointment can be given to the person even though there is

^B

an earning member in the family with the prior approval of the Secretary. The respondents counsel submitted that since it was not found to be a deserving case, therefore, this para does not help the applicant in any way. ~~Then~~ ^{Further R} They have submitted that the brother of the applicant is employee and drawing a handsome salary and there is no statement in the affidavit that the brother is not supporting the other family members. They have ^R ~~Further~~ ^{Thus R} submitted that the O.A is without any merit and needs to be dismissed ^{with R} ~~at~~ costs.


4. Heard both the counsels and perused the pleadings as ~~follows~~ ^{well R}.

5. The law is well settled by now by the Hon'ble Supreme Court on compassionate ground ~~that~~ compassionate appointment can not be sought as a matter of right and the sole criterion for deciding the case of compassionate appointment, ^{is that} the authorities are required to see whether the family of the deceased employee is in indigent condition. In the instant case the records reveal at the time when deceased employee ^{or} died, his daughter was already married. There were two sons out of which one was already employed and there was only his mother and the son that is the applicant before us left in the family. It is also an admitted position that the family was getting agriculture income to the tune of Rs. 4800 per annum. Apart from ^{this R} ~~fact~~, ~~that~~ they have also got a huge amount by way of terminal benefit and family pension + DA per month. Therefore, it is clear that this cannot be said to be a ^{R where R} ~~case whether~~ the family was in a financial distress. Though the applicant's counsel had relied on the case decided by the Hon'ble Supreme Court in Balbir Kaur but in the instant case we find that while rejecting the case of the applicant retiral benefits was not the only ground

B

taken into consideration but that was only one of the factors.

6. Looking at the facts as explained by the respondents we are convinced that the deceased ^{he had} employee ~~was~~ not left any such liability which required immediate succour from the respondents. The applicant had been surviving from 1991 without moving any Court of law and filed the present O.A only in the year 1999 when he was informed that his case has been rejected in the year 1998. If the applicant could survive for 7 to 8 years on the basis of income that he was having, we are convinced that this ^{is} definitely ^{not} a case which calls for interference by the Tribunal. In many cases ^{while} the Supreme Court has already held that even in most deserving case at best the Tribunal can give directions to the respondents to consider the case of the applicant and cannot give any directions ^{straight} ~~straight~~ away to appoint the applicant. In the instant case since applicant's case has already ^{been} considered by the Circle committee and the grounds for rejection are justified, I would not like to interfere in the matter. The O.A is accordingly dismissed with no order as to costs.


Member-J

madhu/