

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 1403 OF 2000

ALLAHABAD, THIS THE 10th DAY OF JANUARY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Km. Sushama Sharma
 d/o Late R.N. Sharma,
 r/o D-10/31 Vishwanath Lane,
 Varanasi.

.....Applicant

(By Advocate : Shri A.K. Singh)

V E R S U S

1. Union of India through Secretary,
 Ministry of Human Resource and Welfare
 Department, New Delhi.
 2. Commissioner, Kendriya Vidyalay Sangthan,
 18 Shaheed Jeet Singh Marg,
 NEW DELHI.
 3. Joint Commissioner, Kendriya Vidyalay Sangthan
 18 Shaheed Jeet Singh Marg,
 New Delhi.
 4. Principal, Kendriya Vidyalay Sangthan,
 B.H.U.,
 Varanasi.
 5. Deputy Commissioner (Finance),
 Kendriya Vidyalay Sangthan,
 New Delhi.
-Respondents.

(By Advocate : Shri N.P. Singh)

O R D E R

Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. the applicant has challenged the
 order dated 04.01.2000 whereby his request for compassionate
 appointment has been rejected, ~~and~~ she has sought a further ^B
 direction to the respondent to appoint the applicant on
 compassionate grounds on the post of Group-C or any



other suitable post in any Kendriya Vidyalaya in City & district Varanasi in accordance with law.

2. The brief facts as narrated by applicant are that her father was working as P.G.T. (English) in Kendriya Vidyalay Sangthan B.H.U. Campus, Varanasi. When he died on 13.12.1995 leaving behind the family in distress. Applicant's mother applied for compassionate appointment in favour of applicant, the daughter on 24.06.1996 through the Principal. The application was strongly recommended stating therein the request is genuine (Annexure 2 & 3).

3. On 06.11.1996, the applicant's mother wrote another letter to Senior Audit Officer, Kendriya Vidyalay Sangthan (Head Quarter) along-with son's undertaking to the effect that he would have no objection if his unmarried sister is given compassionate appointment since he is living separately and mother has to maintain unmarried daughter Km. Sushma Sharma (Annexure-6).

4. Thereafter, Assistant Commissioner (OFFG) Kendriya Vidyalaya Sangthan sent a letter dated 08.12.1997 to Deputy Commissioner (Personnel) stating therein clearly that son of late Shri R.N. Sharma is staying separately (Annexure-7) ~~but~~ on 01.03.1998 another enquiry was made but nothing was communicated to the applicant so the mother gave another reminder on 04.08.1998 (Annexure-10) followed by number of representations (Annexure 13). Finding no response, she filed Writ Petition No.35435/99 in High Court of Allahabad but the same was dismissed on 21.08.1999. On the ground of alternative remedy available in Tribunal thus she filed O.A. No.1296/99. The O.A. was disposed off vide order dated 02.11.1999 with a direction to the respondents to dispose off the

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representation dated 25.02.1999 within 4 weeks (Annexure-14).

5. Pursuant to the directions of Tribunal, respondents rejected the claim of the applicant by passing a speaking order dated 04.01.2000 on the following grounds:-

- (i) has a very small family consisting of self and her daughter with a self employed son,
- (ii) has an ancestral house.
- (iii) was paid terminal benefits in 6/97 and she is drawing family pension of Rs.4,026/- per-month.
- (iv) has no monetary liabilities.

and that the death of Shri R.N. Sharma took place in December, 1995 and the family has been able to manage all these years without compassionate appointment.

The respondents have also submitted that in her ^{Report for compassionate B} initial appointment the mother had not mentioned that her son is living separately so this cannot be accepted now.

6. The applicant's main contention is that even if applicant's mother had not mentioned initially about the son living separately but the same fact was recorded specifically by the Assistant Commissioner (OFFG) after inquiry in his letter dated 8/12.05.1997 (Annexure-7), therefore, the higher authorities could not have lost sight of this report or ignored the same, applicant's counsel has relied on 1989 AIR S.C. 1976 Sushma Gosai's case and A.I.R. 2000 S.C. 1956 Balbir Kaur's case in support of their contention that family pension or gratuity etc. could not have been taken into consideration while rejecting the request for compassionate appointment. Respondents have relied on 1994 SCC (L&S) 930 : Umesh Kumar Nagpal's case and other judgments.

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7. I have heard both the counsel and perused the pleadings as well.

8. A perusal of the application (Preforma Regarding Employment of Departments of Government Servants dying while in service) ^{shows it is} has a specific column in Para 'V' ^{wherein} particulars of all dependents of the employee (if some are employed, their income and whether they are living ^{as a single person} together or separately is mentioned) ^{if} the applicant's brother had been living separately at the time of applying for compassionate appointment they would have definitely mentioned so in this application itself. This application shows, at page 29, that the column was left blank, meaning thereby at that relevant time the son of the deceased must not have been living separately. Even otherwise in column III against sub-para 'e' it was written there is joint property of the ancestral residential house rejecting no additional income. Therefore, it is clear that the family of deceased employee did have an ancestral house to living. It is also revealed from the averments of applicant that she is pursuing ^{higher} P.E.D. If the applicant is able to pursue her ^{studies} it definitely means that the condition of applicant's family is not so indigent that it requires for immediate help from the respondents side. If the son of the deceased employee has started living separately it does not mean that he does not give any help to the mother. Infact a perusal of the undertaking given by the brother shows that he is not interested in any benefits of the Kendriya Vidhyalaya Sanghathan ^{following} ~~on~~ the death of his father. It ~~is~~ clearly shows that he is well settled

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in his life. Since it is only the daughter of deceased who is also pursuing her higher studies by doing the research work in Economics, she is well educated and ^{compelling} can always apply for a post by applying and ~~connecting~~ ^{connecting} with others. Simply because ~~there~~ ^{it} had been a report by the Assistant Commissioner to state that the ~~some~~ ^{she} had been living separately, it does not call for any interference by the Tribunal. The law is well settled by the Hon'ble Supreme Court that compassionate appointment cannot be sought as a matter of right and can be given only as an exceptional case in those cases where the family is in ^{helpless} indigent condition, after the death of sole earning member of the family leaving the family in total destitute condition which is not the case in the present circumstances. Accordingly I find no merit in this case, therefore, O.A is dismissed with no order as to costs.



Member (J)

Madhu/