

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Original Application No. 745 of 2002.

this the 11th day of March 2003.

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

Ghanshyam Pandey, aged about 23 years, S/o late Sri Muralidhar Pandey, R/o House No. 125/8 Shashtri Nagar, Kanpur.

Applicant.

By Advocate : Sri S.N. Pandey (Absent)

Versus.

1. Union of India through its Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. General Manager, Ordnance Factory, Kalpi Road, Kanpur.
3. Secretary, Ordnance Factory, Board, Calcutta.

Respondents.

By Advocate : Sri A.N. Shukla.

O R D E R (ORAL)

By this O.A., applicant has sought the following relief(s):

"(a) that this Hon'ble Court may be pleased to declare the impugned orders dated 2.11.96 and 4.6.98 to be illegal and the same may be quashed accordingly.

(b) that it may be further directed that the respondent may provide the appointment to the petitioner under the Dying-in-Harness Rules forthwith.

(c) -----

(d) -----."

2. It is submitted by the applicant that his father late Sri Muralidhar Pandey was working as Machinist in Ordnance Factory, Kanpur when he died in harness on 6.5.1994. After his death, the applicant's mother moved an application dated 2.6.1994 for giving

compassionate appointment to her only son under dying in harness Rules (Annexure A-1), but instead of providing compassionate appointment, the respondents issued an order dated 2.11.1996 advising the applicant to get himself enrolled in Employment Exchange as no appointment is possible on compassionate grounds in view of the fact that the sufficient money amounting to Rs.161348/- had already been given to his mother with family pension (Annexure A-2). Being aggrieved by the said order, the applicant filed a Writ Petition in the Hon'ble High Court, which was decided on 4.3.1998 by directing the respondents to decide the applicant's representation (Annexure A-3). The said order was served on the respondents, but vide order dated 4.6.1998 the respondents once again rejected the claim of the applicant (Annexure A-4). The applicant again filed a writ petition bearing no.10453 of 2000 before the Hon'ble High Court, which was dismissed on 11.4.2002 on the ground of alternative remedy to approach the Central Administrative Tribunal (Annexure A-4A). Thus, he has filed the present O.A. claiming the relief(s) as mentioned above .

3. The respondents have opposed the O.A. on the ground that late Sri Muralidhar pandey, father of the applicant died on 6.9.1994 leaving behind his widow and son as his legal representatives and heirs, but since the widow was given sufficient amount by way of terminal benefits, it was decided not to give the compassionate appointment, as that was found sufficient to maintain the family. They have further referred to the judgment given in the case of Umesh Kumar Nagpal to state that compassionate appointment cannot be sought as a matter of right and at best the person has only a right for consideration and since his case had already been considered in which it has not been found fit

for grant of compassionate appointment, no relief can be given as prayed for by him.

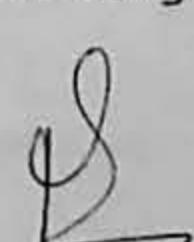
4. I have heard both the counsel and perused the pleadings as well.

5. The counsel for the applicant also relied on 2001(") ESC Allahabad High Court 876. The law on the question of compassionate appointment is well settled by now. It cannot be sought as a matter of right, nor can it be claimed as a line of succession. On the contrary, compassionate appointment is to be given only in exceptional circumstances where the family is totally in indigent condition and is not able to survive without the immediate assistance by the department and as such condition has to be assessed by looking into the financial condition of the deceased family, number of members in the family left, number of un-married daughters and minor children, source of income, if any, whether the family has movable/immovable property and above all to see, whether after seeing all the aspects of the matter, the case of the person concerned comes within the ceiling of 5% limit of direct recruitment^{vacancies} in a particular year. Therefore, the Courts have to see whether the respondents have considered the case of the person properly or it has been rejected in an arbitrary manner without looking into the circumstances of the family as submitted by the members of the deceased employee. In the instant case, it is seen that when the deceased employee died, he had left behind only his widow and one son. There was no major liability left by him inasmuch as neither there was any un-married daughter, nor big family left by the deceased employee. On the contrary, there was only one son left by him and since the amount given to the applicant's mother after the death of the deceased employee was a

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good amount ~~and~~ it was considered to be sufficient for survival of the family members, the respondents had informed the applicant that they cannot be granted compassionate appointment. In any organisation, there are number of persons who die in harness and most of the cases, people applied for compassionate appointment ^{In favour of} to one or the other child of the deceased employee, therefore, the respondents have to see all those cases by a same yardstick and so long they come to the conclusion ^{that} the family circumstances of the deceased family members are not so bad that calls for compassionate appointment, the Court should not ordinarily interfere in the matter. The Hon'ble Supreme Court has repeatedly held that the Court should not give a direction to the respondents to give appointment to any individual and at best if they feel that the case has not been properly considered, they should remit back the matter for re-consideration. In this case, the matter had already been considered and the respondents have reiterated their stand that looking ~~at~~ the number of members in the family as compared to the terminal benefits given by the respondents, they feel that it is not a fit case for grant of compassionate appointment. I think that no interference is called-for in the present case as the applicant has not been able to show from his pleadings that they are living in indigent condition or circumstances.

6. In view of the above discussion, I find no merit in this case and the O.A. is accordingly dismissed with no order as to costs.



MEMBER (J)

GIRISH/-