

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO. 827 OF 2002

ALLAHABAD THIS THE 16th DAY OF May, 2006

HON'BLE MR. K. B. S. RAJAN, MEMBER-A

Roopwati Devi,
W/o Late Geetam Singh,
R/o Village-Phushawali,
Tehsil Atrauli,
District-Aligarh.

. Applicant

By Applicant: Shri V. M. Shrama (Absent)

Versus

1. Union of India, through Ministry of Urban
Affairs and Employment,
New Delhi.
2. Govt. of India Press, Aligarh.
3. Asstt. Manager (Administration),
Govt. of India Press, Aligarh.

. Respondents


By Advocate: Shri S. K. Anwar

ORDER

By K.B.S. Rajan, Member-J

Notwithstanding the fact that the applicant is not represented either in person or through his counsel, the case has been considered, of course, invoking the provisions of Rule 15(1) of the CAT (Procedure) Rules, 1987.

2. Brief Facts of the case as per applicant is as under:

- a) The husband of the applicant late Geetam Singh was employed in the Govt. Press, Aligarh as Class III employee. He had served as permanent employee in the office of the respondent no.2 continuously from more than 15 years. He died on 01.09.1996 while he was in service leaving ^{behind} ~~husband~~ his widow and four minor children (3 ^{daughters} ~~dependant~~ and one son), Vide succession certificate, the applicant applied for being appointed on suitable post on compassionate ground. The applicant was asked to submit an affidavit mentioning her age and the fact that she is widow of late Geetam Singh and other legal heirs of Geetam Singh and minor.
- b) In response to the application of the applicant, for being appointed on compassionate ground, the respondents have issued a letter dated 21.03.2002 and 1.05.2002, asking the applicant to appear for interview, so that further proceeding in this regard could be done. Thereafter, vide impugned order dated 17.6.2002 the applicant's request for being appointed on compassionate ground has been turned down on the ground, that she is getting family has got approximately. Rs.1,17,987/- as service benefit of Late Geetam Singh and she has a Double Storeyes house, built on
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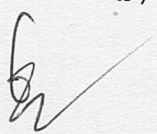
300 sq. yard and in addition to this, she is a Joint owner of 5 Bighas of agricultural land and lastly it is not possible to provide appointment within one year. Impugned order dated 17.6.2002 is arbitrary, illegal and bad in the eyes of law. Appointment on compassionate grounds cannot be devoid to the applicant on the ground that she is drawing family pension and she is above the poverty line. The grounds taken are wholly arbitrary.

- c) The applicant on compassionate ground cannot be denied because the applicant had received some money after the death of her husband. The applicant does not own any house in her name. The house in which she is living belongs to her father in law.

3. The response of the respondents to the above is as under:

- a) The compassionate appointment committee in the Directorate of Printing considered the request of Smt. Roop Wati W/o Late Sri Geetam Singh in accordance with the provisions contained in the above scheme and the recent guidelines of DP & T as stated in para 2 above.

- b) The Compassionate Appointment Committee noted that late Sri Geetam Singh had put



in 12 years of service. His family received Rs.1,17,987/- as terminal benefits and is in receipt of a family pension of Rs.1600/-+ 49% D.A. on pension which is above the figures of Rs.1767.20 provided by the Planning Commission as the income level below which a family of five members can be considered to be below poverty line. The family owns immovable property in the form of Pucca double storied house with a covering area of 300 sq yards and also owns 5 Bighas of Agricultural land jointly with her brother-in-law Sri Lochan Singh. The numbers of dependants of late Sri Geetam Singh Are 5 (five).

- c) Having examined the case in light of the extent instructions on the subject. The compassionate appointment committee did not consider the case of Smt. Roopwati Devi as deserving meriting compassionate appointment. The appointment on compassionate ground can legally be recommended only to the extent of vacancies available within a year that too within the prescribed ceiling of 5%. The applicant has not found deserving/meriting as per the scheme and extent rules.

4. The case has been considered. Admittedly the widow has three young children two of whom are

females and one male. It is not exactly known, whether the respondents have taken into account the heavy responsibility of the widow to take care of the children apart from just bringing them up, of their education and also of the social obligation (marriage of daughters). Mere fact that terminal benefits are given may not be a good ground to deny consideration of compassionate appointment. In this regard, the latest judgment of the Apex Court in the case of **Govind Prakash Verma v. LIC of India, (2005) 10 SCC 289**, has reads as under:-

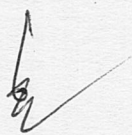
2. This appeal is preferred against the judgment and order passed by the Patna High Court, refusing the relief of compassionate appointment to the appellant on the death of his father during the course of employment. The learned Single Judge mentioned in the order, the factors which were taken into account by the Senior Divisional Manager refusing the appointment, that the widow of the deceased gets monthly pension of Rs 4735, apart from the terminal benefits which were paid to her, namely, gratuity, PF, additional gratuity, etc. According to the conclusions of the officer, as quoted in the judgment of the learned Single Judge, it is sufficient for the maintenance of the family.

3. It appears that during the course of the proceedings the learned Single Judge had required that some officer of LIC may make enquiries into certain aspects of the matter, which we find enumerated in the order dated 25-2-2002. The learned Single Judge observed as follows:

"It is, therefore, essential to further investigate as to whether the members of the family engaged in gainful employment were also supporting the family of the deceased employee or he was living separately and independently and the other members of the family of the deceased did not receive his help or sustenance from his gainful employment. Unless this aspect of the matter is also looked into, the provision of sub-rule (iii) of Rule 212 will lose its significance and as noted above it will not fully serve the purpose of the scheme. In the case in hand though it was admitted that the elder brother of the petitioner was gainfully employed in cultivation, it was also stated that he was living separately from the other family members."

4. In pursuance of the said order an officer of LIC appears to have made some enquiry and submitted his report dated 27-4-2002. In the report, he repeats about

the family pension which is being paid to the widow of the deceased and the amount which was received as terminal benefits admissible under the Rules. Thereafter, it is mentioned in the report that the elder brother of the complainant is engaged as a painter but he did not disclose his income. Earlier, it is mentioned that he had said that he was engaged in cultivation. The officer inferred that the employment of the elder son of the deceased was being concealed. He also observed that at some places the statement of the elder brother was contradictory. Ultimately, the officer deputed to make enquiries, comes to the conclusion: "Because of the contradictory nature of statements made by the elder son as also the facts mentioned above the appointment of Govind Prakash Verma on compassionate ground is not maintainable." It is a brief report containing the above conclusions. There is no report in regard to other factors which the learned Single Judge had indicated in his order, upon which also he was required to submit his report. There is specific mention of the case of the appellant in the order saying that the elder brother was engaged in cultivation and was living separately. But the officer




who seems to have enquired into the matter, in pursuance of the order of the learned Single Judge, totally omitted to furnish any report on the points, indicated above, as required by the High Court. They seem to be obsessed by the fact that the widow of the deceased is getting family pension and some good amount was paid to them as terminal benefits. The learned Single Judge while passing the final order takes those factors into account, namely, the family pension and other amounts which had been received as terminal benefits of the service and it is said that since the authorities have arrived at certain findings it would not be appropriate to go into those matters, thus he accepted the same and dismissed the petition.

5. In writ appeal, the Division Bench found that no infirmity was shown in the order passed by the learned Single Judge, hence, the writ appeal was dismissed.

6. In our view, it was wholly irrelevant for the departmental authorities and the learned Single Judge to take into consideration the amount which was being paid as family pension to the widow of the deceased (which amount, according to the appellant, has now been reduced to half) and other amounts paid on

account of terminal benefits under the Rules. The scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules. So far as the question of gainful employment of the elder brother is concerned, we find that it had been given out that he has been engaged in cultivation. We hardly find that it could be considered as gainful employment if the family owns a piece of land and one of the members of the family cultivates the field. This statement is said to have been contradicted when it is said that the elder brother had stated that he works as a painter. This would not necessarily be a contradiction much less leading to the inference drawn that he was gainfully employed somewhere as a painter. He might be working in his field and might casually be getting work as painter also. Nothing has been indicated in the enquiry report as to where he was employed as a regular painter. The other aspects, on which the officer was required to make enquiries, have been conveniently omitted and not a whisper is found in the report submitted by the officer. In the above circumstances, in our

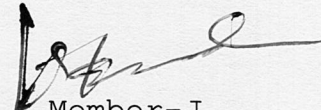


view, the orders passed by the High Court are not sustainable. The respondents have wrongly refused compassionate appointment to the appellant. The inference of gainful employment of the elder brother could not be acted upon. The terminal benefits received by the widow and the family pension could not be taken into account.

7. In the result, the appeal is allowed and the orders passed by the High Court are set aside. The respondents on consideration of the request of the appellant for compassionate appointment shall pass appropriate order in the light of the observations made above, within a period of three months from today.

5. In view of the above, it is felt that the respondents having not applied their mind in considering the case keeping in view the above dictum of the Apex Court, interest of justice would be met if a direction to the respondents to consider the case of the applicant keeping in view the spirit contained in the above judgment of the Apex Court and accordingly the respondents should consider the case of the applicant afresh and communicate the decision to the applicant. In case, the applicant's case is found deserving compared to others and if vacancies exist, the applicant be offered a suitable appointment and in case on comparative merit the applicant could not figure in details of the merit

position, including that of the person who would ^{not be} be
offered the appointment be made available to the
applicant. No cost.


Member-J

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