

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

THIS THE 9th DAY OF February 2011

HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)

Original Application No. 846 OF 2006
(U/S 19, Administrative Tribunal Act, 1985)

Amar Kshor Pankaj aged about 37 years Son of Late Shri
Sundar Lal Pankaj 24/86, Seeta Ram, Man Singh Kis
Bagheechee, Jeevni Mandi, Agra (U.P.)

.....Applicant

V E R S U S

1. Union of India through Secretary, Ministry of Defence,
New Delhi.
2. Commandant, Central Ordinance Depot, Agra.
3. C.S.O./Karmik Adhikari, Central Ordinance Depot,
Agra.
4. Deputy Director, N.G.O./O.S (Pers.)

.....Respondents

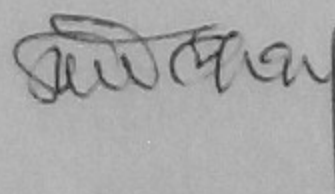
Present for the Applicant: Sri A.A. Khan

Present for the Respondents: Sri R. K.Srivastava

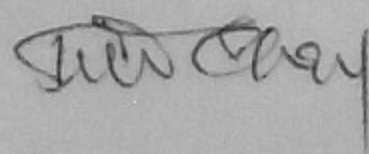
O R D E R

(DELIVERED BY HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER (J))

Under challenge in this O.A. is the order dated 28th
January, 2006 passed by respondent No.2-Annexure-1.
Prayer has also been made in order to give a direction to
the respondents to allow the application of the applicant for
appointment on compassionate ground on the death of late
Sunder Lal Pankaj father of the applicant. And that
applicant is also entitled for all consequential reliefs. The
facts of the case may be summarized as follows:-



2. That the father of the applicant namely Sri Sunder Lal Pankaj was working at Central Ordinance Depot, Agar as Office Superintendent and he died while in service on 11th October, 2000 and after his death he left his widow four daughters two of them were major and two were minor and three sons out of these three sons two were major and one is minor and these were the dependents of the deceased. That the marriage of daughters namely Km. Manju and Km. Seema was performed in the year 2001 and 2003 out of the funds received upon the death of the late Sunder Lal Pankaj and taking loan from the relatives. Beside these members there are three other sons of the deceased namely Anil Kumar Pankaj aged about 44 years, Raj Kumar Pankaj aged about 38 years and Devendra Kumar Pankaj aged about 34 years and two daughters namely Smt. Rajni and Smt. Rajeshwari both were married during the life time of the deceased and these three sons and daughters had been living with their family separately and they had been earning meager income which is totally insufficient for their own family. That these three sons were neither dependents of the deceased nor they were in a position to help their Mother and other children. An application was submitted to the respondent No.2 for providing compassionate appointment and proper inquiry was conducted by the respondents through District Magistrate, Agra and it has



been ordered by the respondents that details be submitted regarding earning of three other sons that the required information was submitted. An undertaking was submitted by the applicant to maintain his Mother/Widow of the deceased and dependents of the deceased. That the case of the applicant was considered twice but it was not found fit. Third time it was also considered and the respondents recommended the case of the applicant to the Ministry of Defence but respondents have informed that the application of the applicant for compassionate appointment has been rejected by the Ministry of Defence/Competent Authority and the application was rejected on the ground that the family has received a sum of ₹4,14,929/- as terminal benefits and is in receipt of ₹5,500/- per month as family pension and four sons are already in service that the daughter are unmarried and the applicant is the fifth child. That all the children of the deceased are major and the family of the deceased have not been rendered without any means for the livelihood due to the death of the earning member of the family. It has also been alleged that the Terminal benefits received by the family cannot be taken into consideration for the purposes of giving compassionate appointment and the terminal benefits are admissible to every one in such circumstances and infact the other sons of the deceased are getting very meager amount. And the

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application of the applicant had wrongly been rejected and hence the O.A.

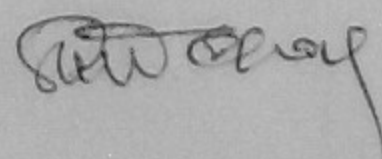
3. Respondents contested the case and filed Counter Reply. It has been alleged in the Counter Reply that name of the applicant was put up before the Board of Officers at the time of meeting of the Board on 14th August, 2001 for the first time. Only four vacancies were available for Group-'C' post and the name of the applicant was figured at Sl. No. 32 in the merit list prepared by the Board of Officers was considered alongwith 78 applicants in number but the name of the applicant was not recommended for employment due to more deserving cases and the vacancies were limited. Second time the case of the applicant was put up before the Board of Officers on 22nd December, 2001 and at this also four of Group 'C' post were available in the Central Ordinance Depot, Agra and the name of the applicant was figured at Sl. No. 9 of the merit list containing 23 other cases of the dependents of the deceased Government employee and at this time also the case of the applicant was not recommended for consideration. Third time also the case of the applicant was put up on 04th March, 2003 before the Board of Officers and this time being only five vacancy of Group 'C' post available at the time of meeting of the Board and the name of the applicant being at Sl. No. 05 of the merit list of 17 other cases of the dependents of

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the deceased Government servants. The Board recommended the name of the applicant for employment and Army Headquarter, New Delhi, examined the case of the applicant and observed that the applicant had three brothers earning by doing labour work from the verification report furnished by the District Magistrate, Agra. Moreover the family of the deceased received the Terminal benefits and hence the case of the applicant was dismissed. That the case of the applicant was rejected as per guidelines of DOPT and various judgments of the Hon'ble Supreme Court in this regard. That the case of the applicant is not covered under the guidelines of the DOPT and Judgment of Hon'ble Apex Court hence the O.A. is liable to be dismissed.

4. Rejoinder Affidavit was also filed by the applicant.

5. I have heard Mr. A. A. Khan, Advocate for the applicant and Mr. Dharmendra Tiwari, Advocate holding brief of Mr. R. K. Srivastava, Advocate for the respondents and perused the entire facts of the case. It is undisputed fact that the case of the applicant was considered thrice as per instructions of the DOPT and thrice the case of the applicant was not considered fit for giving employment as there were other deserving persons. Third time again on 04th March, 2002 the case of the applicant was considered by the Board of Officers. And at this time only five vacancy of Group 'C' were available and the case of the applicant at Sl. No.05 of



the merit list of 17 other persons and the case of the applicant was recommended to the Army Headquarter, New Delhi for approval, but the Ministry of Defence informed the respondents that the case of the applicant was not fit for giving compassionate appointment.

6. It is undisputed fact according to the applicant also that the deceased on his death left his widow Smt. Maya Devi, four daughters namely Kumari Manju, Kumari Seema, Kumari Renu and Kumari Meena two major and two minor, and three sons namely Amar Kishor Pankaj, Jitendra and Pawan Kumar all are minor. It is also undisputed fact that Kumari Manju and Kumari Seema were married after the death of the deceased in the year 2001 and 2003 respectively. And, thereafter, according, to the applicant in the family of the deceased remained the widow Smt. Maya Devi, two unmarried daughters and three sons as dependents of the deceased. It is also a fact that that beside these dependents of the deceased there were three sons of the applicant namely Anil Kumar Pankaj a/a 44 years, Raj Kumar Pankaj a/a 38 years and Devendra Kumar Pankaj a/a 34 years and two daughters namely Rajni and Rajeshwari. It is an admitted fact that these three sons and two daughters were married during the life time of the deceased and they had been living separately with their family. According to the allegations of the application these

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sons were living separately and they were not contributing anything towards the maintenance even during the life time of the deceased. Although, their income was very meager in order to contribute towards the maintenance of the other family members but even then their income was not sufficient. Moreover, two daughters were married during the life time of the deceased and two daughters are to be married later on. Afterwards their remained the widow of the deceased two daughters and three sons as dependents of deceased. It has been alleged by respondents that the case of the applicant was considered thrice as per direction of the DOPT. On two occasions the case of the applicant was not recommended to the Ministry of Defence for giving employment as there were more deserving persons for giving employment. Third time there were only five vacancies and the case of the applicant was recommended to the Ministry of Defence for consideration for appointment on compassionate ground and the case of the applicant was figured at Sl. No.05.

7. It has been argued by the learned counsel for the applicant that there has been no justification with the respondents to reject the candidature of the applicant from giving compassionate appointment. And the reasons should have been mentioned that as to how and why the candidature of the applicant was rejected and when there

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were five vacancies and the name of the applicant was recommended for compassionate appointment then it ought to have been given to him. That the reasons given by the respondents in rejecting the claim of the applicant are most unjustified. The case of the applicant was rejected on the ground that three sons of the deceased are earning member and they can maintain and contribute towards the maintenance of the dependents of the deceased. Learned counsel also argued that firstly the income of these three sons was so meager in order to contribute anything for the maintenance of the dependents of the deceased and they were the labourer and earning only 15,000/- per annum. Secondly all these three sons were living separately even during the life time of the deceased hence it was not expected from them to contribute anything towards the maintenance of the family of the deceased. That there are two minor daughters of the deceased and three sons beside widow in the family as dependents and there was no source of livelihood of these persons after the death of the deceased. It is undisputed fact that three brothers of the deceased are the earning members and it is expected from them that they will contribute something for maintenance of the Mother and minor children. But the applicant has specifically alleged that during the life time of the deceased they had been living separately and they were not contributing anything towards the maintenance of the

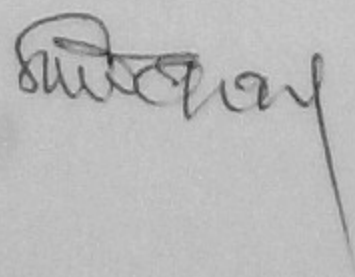
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dependents of the deceased because their income was too meager. It is undisputed fact that the family of the deceased was too big there were six daughters and six sons in the family and beside this the widow of the deceased it means there are total 13 members in the family of the deceased. But the respondents rejected the claim of the applicant on the ground that there are three earning members of the deceased and hence there was sufficient source of livelihood of the applicant. But it is established fact that three sons of the deceased were the earning members but their income was too meager hence it can't be accepted that they will contribute a single pie towards the family of the deceased after the death of the father.

8. Moreover, the application of the applicant has also been rejected on the ground that a sum of ₹4,14,929/- was received by the family of the deceased as terminal benefits and widow is also getting family pension @ ₹5,500/- per month and that this is sufficient in order to maintain the family of the deceased beside the three earning members. Learned counsel for the applicant argued that the terminal benefits can't be taken into consideration for rejecting the application of the applicant for compassionate appointment and the order of the respondents is most unjustified on this ground. If the terminal benefits can't be taken into consideration even then the widow of the deceased was

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getting the family pension @Rs.5,500/- and three sons of the deceased are the earning members. Under these circumstances it may be considered that there was sufficient means available to the applicant and widow of the deceased to maintain the family. In order dated 28th January, 2006 respondents have cited numbers of judgments of Hon'ble Supreme Court and it has been held in the judgment that compassionate appointment is to be provided in order to give some assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the member of the family so that family may survive. It has also been argued by the learned counsel for the respondents that there was sufficient means with the applicant to maintain the family even after the death of the father as there were three earning members in the family. I have perused the judgment and law laid down by the Hon'ble Apex Court in the matter of giving compassionate appointment I agree with the arguments of the respondents' Advocate to the effect that considering the law laid down by Hon'ble Apex Court the case of the applicant is not covered for giving compassionate appointment and there was sufficient means with the family to survive even after the death of the father.



9. For the reasons mentioned above I am of the opinion that the case of the applicant was not fit for giving compassionate appointment even after death of the father there were three sons who had been earning and they were in a position to contribute for the maintenance of the family and the case of the applicant was not of such nature as by not giving compassionate appointment the family will starve. The family even after the death of the deceased is surviving at present after lapse of 10 years and is living well of, under these circumstances O.A. Lacks merits and the same is liable to be dismissed.

10. O.A. is dismissed. No order as to costs.

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Member-J 