

[RESERVED ON 08.10.2012]

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 12th DAY OF October 2012)

Present

HON'BLE DR. K.B.S. RAJAN, MEMBER (J)

ORIGINAL APPLICATION NO. 283 OF 2007

(U/S 19, Administrative Tribunal Act, 1985)

Rajeev Kumar Shukla, Son of Late Smt. Prema Devi, Resident of
House No.50/69 Naughara, District-Kanpur Nagar.

.....Applicant

V E R S U S

1. The Union of India, through General Manager, Govt. of India,
Ministry of Defence, Ordinance Factory, Kanpur Nagar.
2. The General Manager, Ordinance Equipment Factory, Kanpur
Nagar.
3. The Works Manager (Administration), Govt. of India, Ministry
of Defence, Ordinance Equipment Factory, Kanpur Nagar.

.....Respondents

Advocates for the applicants:-

Shri S. N. Pandey.

Shri M. Chaturvedi.

Advocate for the Respondents:-

Shri R. K. Tiwari.

ORDER

DELIVERED BY:-

(HON'BLE DR. K.B.S. RAJAN MEMBER-J)

The question involved in this case is pure and simple. One

Shri Rakesh Kumar Shukla, Medical Assistant OEFC died in harness

sometimes in 1985 and consequently his wife Smt. Prema Devi Shukla was provided appointment on compassionate ground after the death of her husband. The said Prema Devi served for a period of 18 years from March 1986 and died on 19-06-2004. She had left behind, the applicant, who is her son. The applicant applied for compassionate appointment and having not been provided for such compassionate appointment, he moved the Tribunal in O.A. No. 239 of 2005, which was disposed of by the Tribunal by order dated 14-03-2005, with a direction to the respondents to dispose of the representation filed by the applicant. The application was considered by the respondents who have, however, rejected the case on the following ground:-

“दिनांक 22 मार्च 1999 में उल्लिखित नियम के अनुसार अनुकम्पा योजना के आधार पर नियुक्ति पाने वाले आश्रित की मृत्यु हो जाने पर प्रथम मृतक सरकारी कर्मचारी के परिवार के अन्य सदस्यों द्वारा अनुकम्पा आधार पर नियुक्ति के दावे की अनुमति नहीं होगी क्योंकि एक विशेष पद पर अनुकम्पा के आधार पर किसी भी व्यक्ति की नियुक्त लागू होने वाली एक जैसी कई परिस्थितियों को समाप्त हुआ समझा जाना चाहिए।

उपरोक्त आधार पर आपका मामला अनुकम्पा योजना के आधार पर नियुक्ति के अन्तर्गत नहीं आता है। अतः वर्तमान सरकारी निर्देशों के आधार पर आप को अनुकम्पा नियुक्ति प्रदान करना सम्भव नहीं है।

ह0 अपठनीय
टी0 के0 बसाक
सहायक कार्यशाला प्रबन्धक/प्रशासन
कृते महाप्रबन्धक

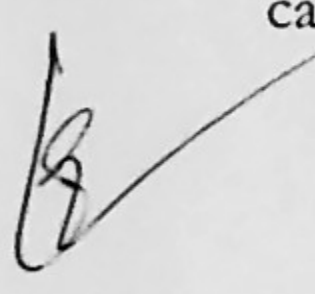
मुहर
29-06-06”

2. It is against the above order that the applicant has preferred this OA seeking following reliefs:-

- "i) issue a writ, order or direction to quash the order dated 6.5.2005 passed by respondent no.3 enclosed as Annexure No.1.*
- ii) issue a writ, order or direction to appoint the applicant on compassionate ground under dying-in-harness Rules.*
- iii) Issue any other relief to the applicant which this Hon'ble court may deem fit and proper in the facts and circumstances of the case.*
- iv) Award the cost to the applicant as may deem fit and proper in the circumstances of the case."*

3. After the exchange of pleadings, the case was listed for hearing. Counsel for the applicant had sent illness slip. Counsel for the respondents submitted that there cannot be two compassionate appointments, one for the mother and the other for the applicant.

4. Argument has been heard. Apparently, the compassionate appointment of the mother in 1986 was in the wake of her husband's demise while in service. The claim of the applicant is based on his mother's demise, who had served the department for over 18 years. Thus, there is absolutely no link between the appointment of the mother of the applicant and the claim of the applicant. Thus, it cannot be treated as a case of two appointments on compassionate

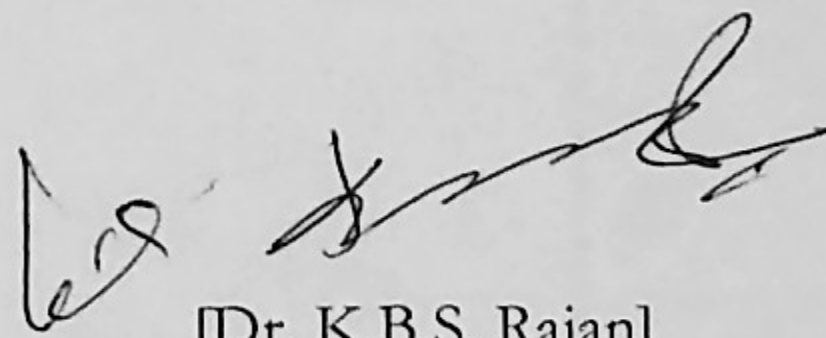


grounds over the death of one government servant. The respondents have fallen into a grave error in assuming that the applicant's claim for compassionate appointment is on account of his father's death.

5. In view of the above, **the OA succeeds.** The impugned order dated 06-05-2005 is quashed and set aside. Respondents are directed to consider the application of the applicant for compassionate appointment in the next Circle Relaxation Committee meeting. The rules that were prevailing as of 2005 (date of application of the applicant) should be kept in mind in so far as consideration of the case of the applicant is concerned.

6. The decision of the CRC shall be communicated to the applicant. The applicant be also informed of the probable date of convening of the CRC.

7. No cost.



[Dr. K.B.S. Rajan]
Member-J

/Dev/