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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~XXXXXXXXXX~~

O.A. No. 315 OF 1989  
~~XXXXXXXXXX~~

DATE OF DECISION 26/04/1990

Shri Y.B.Raval, Petitioner

Mr. J.F. Shah Advocate for the Petitioner(s)

Versus

Union of India and others. Respondent

Mr. J.D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N. Dharmadan : Judicial Member

The Hon'ble Mr. M. M. Singh : Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

Shri Yogesh Balashankar Raval,  
Block No. 9/A House No. 16/66,  
Nava Be Malia, Bharatnagar,  
Bhavnagar.

... Applicant

Versus

1. Union of India  
(Ministry of Communications,  
Department of Posts),  
NEW DELHI - 110 001.
2. Post Master General,  
Gujarat Circle,  
Ahmedabad - 380 009.

... Respondents,

Coram : Hon'ble Mr.N.Dharmadan : Judicial Member

Hon'ble Mr.M.M.Singh : Administrative Member

ORAL ORDER

Date : 26/4/1990

Per : Hon'ble Mr.N.Dharmadan : Judicial Member

The applicant, who is the only son of late Shri B.N.Raval, who died on 11.11.1985, while in service, approached to this Tribunal with a grievance that his claim for compassionate appointment has not been considered by the concerned authority in the light of the relevant Rules applicable to the same and the decision rendered by the Supreme Court and the Tribunals.

2. The relevant facts are as follows : -

At the time of the death of the father, the applicant was a minor. Immediately when he attained majority he submitted the applica<sup>tion</sup> for compassionate appointment which was rejected by the Post Master General, Gujarat Circle, Ahmedabad, as per Annexure-A-1, order. When the matter ~~xx~~ was again<sup>re</sup>used it was considered by the Board, but the Board passed Annexure-A-2, order, rejecting his claim on the ground that the widow of late Shri B.N.Raval, is getting his pensionary benefits. This is irrelevant consideration according to the applicant.

3. The respondents seek to support the impugned order by giving the facts pertaining to the pensionary benefits, received by the mother of the applicant. The details as given in the counter filed as follow :

Details of Assets left :-

1. Family pension Rs.480/-p.m. up to 11.11.1992 and Rs.375/- p.m. from 12.11.1992 plus interim relief 29% of the pension as per present rate of interim relief. The interim relief on pension is linked with the level of price index. At present the family receive family pension Rs.480 + Rs.139 interim relief Rs.619/-p.m.
2. In addition to family pension of Rs.619/- p.m. the family has been paid the following amount as terminal benefits.

1. Death Gratuity	Rs.13110/-
2. G.P.F. Balance	Rs. 841½/-
3. C.G.E.I.S.	Rs.20802/-

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Total .... Rs.34753.00

4. We have heard the arguments of the learned counsel on both sides and perused the documents. The Rules dealing with the compassionate appointment are produced along with the application as Annexure - A-3. These Rules do not make mention about the receipt of pensionary benefits, as an item in paragraph - 2, of the said Rules, when describing and dealing with the eligibility conditions of the compassionate appointment. So, the Board was misdirected itself in having rejected the claim, placing reliance and taking into consideration pensionary benefits which are being received by the mother of the applicant after the death of Shri B.N.Raval. According to us

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this is not a relevant consideration and our view is supported by a judgment rendered by the Central Admn Tribunal, Calcutta Bench, in Adhir Kumar Nath, Vs. Union of India and Others ( O.A. 859 of 1987, D/-24-1-1989), para-7, of the judgment is relevant, and we are extracting the same for reference.

Para.7. It has been contended in the Reply that the applicant received full retirement benefits and was not, therefore, entitled to any compassion. It is now here stated in order of the Railway Board that the amount of retirement benefits has to be taken into consideration while determining the fitness of an employee's prayer for employment of his son on compassionate ground. This contention of the respondents is not therefore, supported by the extant orders of the Railway Board and is thus not acceptable.

Having regard to the facts and circumstances of this case we are of the view that "the respondents have not considered the claim of the applicant in the light of the aforesaid Rules and the decided case, law on the subject.

So, the applicant is well founded in the submission that the order is bad and unsustainable since authorities have not considered the relevant rules dealing with the subject while passing the impugned order. Hence they are unsustainable and we are inclined to quash them direct the first respondent to reconsider the claim of the applicant in the light of the decided case and the relevant rules and pass a fresh order granting the rules to the applicant permissible to the law. The respondents shall pass a order~~wx~~ within a period of 4 months from

the date of the receipt of judgment.

In the result ~~with~~ the above observations and directions, we quash the impugned order and allow the applica<sup>tion</sup> to the extent indicated above. However, there will be no order as to costs.

*M. M. Singh*

( M.M. Singh )  
Administrative Member

*N. Dharmadan*

( N. Dharmadan )  
Judicial Member

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