

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /365/93
T.A. No.

DATE OF DECISION 3rd March, 1994

Dilipkumar A.Gida **Petitioner**

Mr. P. H. Pathak **Advocate for the Petitioner(s)**

Versus

Union of India & others **Respondent**

Mr. Akil Kureshi **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. N.B. Patel : Vice Chairman

The Hon'ble Mr. K. Ramamoorthy : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Dilipkumar Abhalbhai Gida
 Nr.Old Post Office,Dhasagam,
 District :- Bhavnagar

Applicant

Advocate

Mr.P.H.Pathak

versus

1. Union of India,notice
 to be served through
 The Member Post,
 c/o,Director General,
 Department of Posts,
 New Delhi
2. Postmaster General,
 Gujarat Circle,
 Khanpur,
 Ahmedabad

Respondents

Advocate

Mr.Akil Kureshi

ORAL JUDGMENT

IN

O.A.365 of 1993

Date : 03-3-1994

Per : Hon'ble Mr.N.B.Patel

: Vice Chairman

The applicant is ^{His} son of one
 Abhalbhai Gida, an employee of the Postal Department who

died in harness on 20th February, 1992. Apart from the applicant, the said Abhal Gida is survived by his widow and two other sons. The applicant applied for compassionate appointment on 30-3-1992 and 2-11-1992. His application has come to be rejected and the decision of rejection is communicated to him by letter dated 10-3-1993 (Annexure A-1). The ground on which the application is rejected, as communicated to the applicant, is that there are two earning members in the family. The reply filed by the respondents shows that a reference to the earning members in the family of the applicant is a reference to the two brothers of the applicant namely N.A.Gida and K.A.Gida. In the reply, it is also stated that the applicant could not be said to be in immediate need of income as ~~the~~ amount of nearly Rs.81,000/- was received by the applicant's mother on account of Death-cum-Retirement Gratuity, G.P.F. Leave encashment, etc. It is also stated that the widow is getting family pension at the rate of Rs.984/-pm.

2. The applicant has challenged the order rejecting his request for compassionate appointment on the ground that the competent authority has not taken into consideration the fact that the brothers of the applicant, who are earning, have been residing separately from the family and they are not in a position to provide any help to the applicant and his widow. The applicant has also averred that the amount of Rs.81,000/-, which his mother had received after the death of his father, was spent as the family

He
has to incur debts to meet expenses of the treatment of the deceased father of the applicant, who was suffering from Cancer and was confined to bed for about six months preceding his death.

3. In order to substantiate his plea that his two brothers, N.A.Gida and K.A.Gida, have been residing separately with their families and that their income should not be considered as relevant factor while deciding the question whether applicant and his mother are in a state of destitution, the applicant has produced a copy of the ration card (Annexure- A-3) which, *prima facie*, shows that the applicant, his mother, his wife and his minor daughter are the only members residing at Dhasagam, ~~as~~ ~~is~~ one family and his brothers, N.A.Gida and K.A.Gida, are not residing with the applicant and the said other members of the family of the applicant. We may not blame the authorities for not taking into consideration the evidence in the form of ration card which, *prima facie*, indicates that N.A.Gida and K.A.Gida have been residing separately and also for not going into the question as to whether the amount of Rs.81,000/- or thereabout was spent up to repay the debts incurred for meeting the treatment expenses of the deceased, because these factors do not appear to have been brought to the notice of the said authority at the relevant time.

At the same time, however, we are of the opinion that we should not decide the matter like ~~the~~ present one, i.e. a matter in which a compassionate appointment is sought, on a narrow technical or legalistic ground. We are of the opinion that, since these factors are now disclosed, they should be taken into consideration by the concerned authority and the said authority should review his decision after taking into consideration these two important relevant factors. If the ~~said~~ version of the applicant in relation to the separate residence of his two brothers and the spending up of the entire amount of Rs.81,000/- is found to be correct, the concerned authority may give due weight to the said factors and may take a fresh decision on the question whether the applicant's request for compassionate appointment deserves to be accepted or not.

4. In the result, therefore, we partly allow the application, quash and set aside the decision on the basis of which the communication (Annexure I) is issued to the applicant and direct ~~the concerned authority~~ to take a fresh decision on the request of the applicant to give him compassionate appointment after considering the aforesaid two factors, if they are found to be genuine and after bearing in mind ^{all} the circumstances having bearing on the question. The applicant may make a fresh representation or application for compassionate appointment detailing therein all the factors, including ^{the} above

two factors, in support of his claim for compassionate appointment and may also furnish the necessary evidence to substantiate his claim. He may make such application/representation within a period of ten days hereof and on receipt of such application/representation, the same shall be decided by the competent authority within a period of six weeks from the date of the receipt of the copy of the application/representation by him and he shall communicate his decision to the applicant within a period of one week after taking the same. The application stands disposed of with these directions with no order as to costs.

1/4
(K.RAMAMOORTHY)
Member (A)

7
(N.B.PATEL)
Vice Chairman

AS**

ARRIVED
Mad Bench

Application

4365/93

of 19

Transfer App

tion No.

Old W.Pett No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated : October

Countersigned :

Amravati 08/11/84

Section Officer/Court officer

ccelap
Signature of the Dealing
Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT ~~NEW DELHI~~ AHMEDABAD

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NAMES OF THE MR D. A. Grade
PARTIES.....

VERSUS

VERS

PART A B & C