

O.A. No. 560 of 2009

Order dated: 01.12.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Heard Mr. D.K.Mohanty, Ld. Counsel for the applicant. A copy of this O.A. has been served on Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel for the Respondents.

2. Applicant is the son of a Govt. employee, who died on 27.2.1998 while working as an E.D. Agent, leaving behind him, his wife, two sons and three daughters. The eldest son is now employed as Driver (though it is stated that he is already separated from the family), and the three daughters have been given in marriage. After the death of the father of the applicant, an application was filed immediately for getting employment assistance on compassionate ground. As a matter of fact the applicant was appointed in one of the existing posts on temporary basis and he continued till 2002, whereafter the CRC found that the applicant's family is not indigent and hence the claim for employment assistance under the scheme has been rejected. However, the matter had earlier been before this Tribunal in



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O.A. 509/03. As per the order dated 17.03.2004, this Tribunal relying on an earlier judgment of the Apex Court reported in AIR 2000 SC 1596 and the decisions of other Benches of this Tribunal, directed the Respondents to reconsider the matter afresh. Accordingly, the present order has been passed rejecting the claim of the applicant. Aggrieved by the said order dated 31.08.2004, the applicant has filed this O.A.

3. Since there has been considerable delay in challenging the impugned order in the present O.A., this Tribunal is of the view that successive representations should not be a ground for condonation of such delay. However, when the matter came up for admission today, this Tribunal considered the matter afresh.

4. Admittedly, the applicant is the second son of the deceased employee, the eldest son is employed as Driver and the three daughters of the deceased have been given in marriage. The family also had received certain amount from the Department due to the death of the father of the applicant. That apart, the applicant had been employed by the Department for a period of six years, though temporarily. In the circumstances, the present order of rejection of the



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case of the applicant has been issued by the reason that the family of the applicant is not so indigent. As a matter of fact, the death occurred in 1998 and in the time between the Department might have come across with so many applications like that of the applicant. It is not that the Department is divested with powers to make comparative assessment of the financial condition of the family of deceased employees.

5. This apart the very object of introduction of Compassionate Appointment Scheme is to render immediate financial support to the dependents of the deceased Govt. employee, dying in harness. Such employment cannot be claimed as a matter of right. Compassionate Appointment case is, therefore, considered on the basis of the time in between the death and the employment assistance so sought. Though in earlier judgments of the Apex Court, the terminal benefits or the retiral benefits due to the deceased employee did not form the basis for calculating the financial position or indigent condition of the family of the deceased employee, yet in a catena of recently pronounced judgments the principle has been laid down by the Hon'ble Apex Court to the effect that financial position of the family of a



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deceased employee would also be considered in the light of the terminal benefits or other benefits received from the Department.

6. On anxious consideration of all the aspects of the matter, this Tribunal is of the view that the present order is fully justified and it does not require any interference by this Tribunal. Accordingly, the O.A. stands dismissed as meritless. No costs.

L. K. Appan
MEMBER (J)

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