

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 28 of 1996.

present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

Sri Amitava Dutta  
S/o- Late, Amrita Lal Dutta  
Vill & PO. Banipur,  
North 24 Pgs.

... ... Applicant.

vs.

1. Controller of Central Excise,  
Bolpur Collectorate,  
Bolpur Municipal Complex,  
PO. Bolpur, Dist- Birbhum.
2. Addl:Collector (P&V),  
Central Excise, Cal-I Collectorate,  
15/1, Strand Road, Custom House,  
Cal-1.
3. Asstt. Collector of Central Excise,  
Durgapur-II Division, Bidhannagar,  
Saptarshi Sarani, Durgapur-12,  
Dist- Burdwan.
4. Adm. Officer, Central Excise,  
Durgapur-II Div. Bidhannagar,  
Saptarshi Sarani, Durgapur-12,  
Dist- Burdwan.
5. Union of India,  
the Secretary Ministry of Finance,  
Dept. of Revenue,  
Govt. of India,  
New Delhi.

... ... ... Respondents.

For Applicant : Mr. C.R. Bag, Counsel.

For Respondents : Mr. S.P. Kar, Counsel.

Heard on : 28.11.96.

Date of Order : 28.11.96.

O R D E R

The applicant, who is the son of a deceased Central  
Excise employee, has prayed for grant of compassionate appointment

Contd....P/2.

Briefly, the facts of the application are as follows :-

The applicant's deceased father was a Superintendent of Central Excise functioning under the respondents who died in harness on 22.10.1994 leaving behind the applicant and two daughters. The applicant's mother is a 'teacher' in a School and according to the averments made by the applicant himself, his mother's monthly income from Salary is Rs. 4,500/- and family pension is about 1100/-. The applicant contends that his father took loan from the market for construction of house building and for which Rs. 3,500/- every month is being repaid from the total income ~~and taxes~~, leaving a balance of Rs. 2,100/- <sup>of the family.</sup> only for maintenance. The applicant applied for the grant of compassionate appointment but the respondents had turned it down by a letter dated 25.4.1995, which is an annexure 'C' to the application. Being aggrieved thereby, the instant application has been filed with the prayer that a direction be issued on the respondents for giving him/compassionate appointment. /

2. The respondents have contested the case by filing a reply. The respondents have given ~~all~~ details of income of the mother of the applicant and also the amount of money that was received by her after the death of her husband. These amounts are as follows :-

i) Total amount of Pension	-	Rs. 2,354.00 per month.
ii) D.C.R.G amount	-	Rs. 97,350.00
iii) G.P.F. balance	-	Rs. 235,826.00
iv) Leave encashment	-	Rs. 47,080.00
v) Insurance money	-	not yet received.

The respondents have categorically averred that the in view of the amounts received by the applicant's mother and ~~then~~ the source of income, the family cannot be called at all indigent and as such, no compassionate appointment can be given to him.

The respondents also contend that the matter was duly considered and it was only after such considerations, the application for grant of compassionate appointment was turned down. They have, therefore, prayed for dismissal of the application since it is devoid of merit.

3. Mr. Bag, during hearing, mainly emphasised on two points. The first point taken by Mr. Bag was that the local authorities have recommended the case of the applicant but it was turned down ultimately by the higher authorities and secondly, the family comprises 6 members and, therefore, the amount of income, which is left with the mother of the applicant after repayment of monthly instalments on house-building loan, is not adequate to make <sup>the</sup> both ends meet and, therefore, the family <sup>to be</sup> should be called in an 'indigent' condition. However, Mr. Kard. Counsel appearing for the respondents cited the decision of the Hon'ble Apex Court in the case of - Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambedkar & Anr. ( JT 1994 (2) SC 183) wherein the following observations were made -

" Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration... Yielding to instinct will tend to ignore the cold logic of law. It should be remembered "law is the embodiment of all wisdom". Justice according to law is a principle as old as hills. The Courts are to administer law as they find it, however inconvenient it may be... A result flowing from a statutory provision is never as evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. A statute must of course be given effect to whether a court likes the result or not. " The Court should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard the case may be, it should never be done. In the very case, itself, there are Regulations and instructions which we have extracted above, The Court

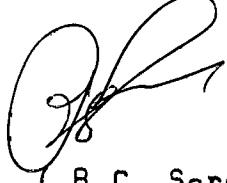
below has not examined whether a case falls within the scope of these statutory provisions. Clause 2 of Sub-Clause (iii) of instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the Circular dated 20.1.1987 interdicts such an appointment on compassionate grounds..."

Mr. Kar, therefore, submits that this is a case in which the grant of compassionate appointment cannot be called for.

4. The matter has been examined by me carefully after hearing the submissions made by the learned Counsel for both the parties, perusing the records and considering the facts and circumstances of the case. As regards first contention of Mr. Bag, 1d. Counsel for the applicant, that the local authorities had recommended the case of the applicant, I would like to observe that, that itself does not confer any right on the applicant to get an appointment on compassionate ground. As per law laid down by the Hon'ble Apex Court, the compassionate ground appointment cannot be claimed as a matter of right; and for such appointment certain conditions will have to be fulfilled. One of such conditions is that the family must be in an 'indigent' <sup>poor</sup> condition since such an appointment will succour to the family which falls in a financial, distress condition as a result of sudden absence of the bread winner of the family. I find in this case from the reply filed by the respondents that the applicant's mother is a 'Teacher' in a School and her monthly income is Rs. 4,500/- By the admission of the applicant himself also, after the death of the applicant's father, the family had received the O.C.R.G amount to the tune of more than rupees Ninety Seven thousand, G.P.F. balance more than rupees Two lakh Thirty Five Thousand, Leave Encashment more than rupees ~~XXX~~ Forty Seven thousand and all these amounts added together comes to a substantial amount <sup>of many</sup> ~~in figure~~. Moreover, the applicant's mother is drawing family Pension. It may be true that the applicant's

father had taken a house-building loan and in repayment of loan in instalments, some amount of money is being deducted from the monthly income of the family, but the fact remains that such amount of money and the loan has been an investment in creating an asset. I further note that the family of the applicant has a double storied house. In view of all these, I find it difficult to hold that the family is in 'indigent' condition. This being so, I find no ground whatsoever for giving a direction on the respondents to consider the grant of compassionate appointment to the applicant. Consequently, the application is liable to be dismissed.

5. For the reasons given above, I do not find any merit in the application. It is, therefore, dismissed. No Order is passed as regards costs.



B.C. Sarma  
Member (A)