

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA 281 OF 1996

Present : Hon'ble Mr. Justice S.N.Mallick, Vice-Chairman  
Hon'ble Mr. S. Dasgupta, Member (A)

1. Sabita Rani Mallick  
Vill. Mahinagar, P.O. Panchkula,  
Dist. Burdwan

2. Madhusudan Mallick,  
Vill. Mahinagar, P.O. Panchkula,  
Dist. Burdwan

VS

1. Union of India through the  
Secretary, Ministry of Finance,  
Dept. of Revenue, New Delhi
2. The Secretary, Central Board of  
Direct Taxes, Central Secretariat,  
North block, New Delhi
3. The Chief Commissioner of  
Income-Tax, Calcutta  
P-7, Chowringhee Square, Calcutta-69

..... Respondents

For the applicants : Mr. S.K.Gupta, Counsel

For the respondents : Mr. S.K.Dutta, Counsel

Heard on : 11.6.98 : Order on : 18.6.98

O R D E R

S. Dasgupta, A.M.:

This application has been filed jointly by Smt. Sabita Rani Mallick, widow of late Satyapir Mallick, an ex-employee of the Income-tax office at Burdwan and her son, Madhusudan Mallick. The said Satyapir Mallick having died in harness, the applicants sought compassionate appointment of applicant No. 2. They are now aggrieved by the rejection of their request and have filed this original application u/s 19 of the Administrative Tribunals Act, 1985, praying for a direction upon the respondents to appoint the applicant No. 2 as lower division assistant in the Income-tax office on compassionate ground.

18

2. The facts of the case lie within a short compass. Late Satyapir Mallick, who was an Upper Division Clerk in the Income-tax office at Burdwan, died in harness on 31.3.90 leaving his widow and three sons. The eldest of the sons is a Group D employee of the Income-tax Deptt. at Suri. But he is married and is living separately with his family and is not in a position to render any financial help to the family of the deceased employee. The widow (applicant No. 1) submitted a representation to the Chief Commissioner of Income-tax, Calcutta praying for compassionate appointment of her second son, the applicant No.2 in this case as a lower division clerk in the Income-tax Deptt. Having failed to obtain any response from the Chief Commissioner of Income-tax (respondent No. 3) even after waiting for a long time, she and her son jointly filed an original application before this Bench of the Tribunal being OA No. 1489 of 1994. This OA was finally disposed of by an order dt./ 16.1.95 with a direction that the respondents shall dispose of the representation dated 7.7.93 within a period of three months from the date of communication of that order. The applicants were given liberty to approach the Tribunal if they felt aggrieved by the decision taken by the respondents.

2. Thereafter, the respondents by their order dated 5.6.95 communicated the decision to the first applicant stating that the request for compassionate appointment of her second son was considered by the Central Board of Direct Taxes, New Delhi, but the Board did not find it a fit case for grant of compassionate appointment. The applicants claim that the local administration conducted an enquiry into the financial condition of the family and they were fully convinced that the representation deserved favourable consideration, and therefore, despite rejection of the request by the Central Board of Direct Taxes on 8.6.93, the local

administration referred the matter again to the Board with the recommendation for reconsideration of the representation ~~dated~~ <sup>on</sup> 7.7.93.

3. The respondents have contested the case by filing a reply in which it has been inter alia stated that an enquiry was indeed held to verify the financial condition of the family which revealed the following facts :

1. The family received Rs. 1,02,792/- as gratuity and other terminal benefits.
2. The family was in receipt of family pension at the rate of Rs. 750/- plus usual allowances.
3. The family possesses agricultural land of 2.10 acres and their own residential house.

The request for employment on compassionate ground has been rejected after considering all relevant facts of the case as stated by the local administration.

4. We heard the learned counsel for both the parties and perused the pleadings on record. As a result of several recent decisions by the Hon'ble Supreme Court, viz. Umesh Kr. Nagpal -vs- State of Haryana, 1994(2) ATCV 537, Haryana State Electricity Board -vs- Hakim Singh, 1997(2) ATJ 665, LIC -vsMrs. Usha Ramchandran etc. 1994(24) ATC 174 (SC) etc., it is now settled law that death of an employee does not per se entitle any member of the family to be given compassionate appointment which is an extraordinary provision to be resorted to only in order to provide immediate assistance to the bereaved family which is left in a penurious condition by the death of the sole bread-earner. It is, therefore, clear that the compassionate appointment can be given only where the administration is satisfied that the family of the deceased is left in penurious condition after the death of the employee. The respondents in this case were not satisfied that the family required any assistance in the shape of compassionate

W

appointment in view of the fact that the widow had received substantial terminal benefits and also had some income from family property apart from possessing their own residential house. We do not find any arbitrariness in the decision of the respondents in rejecting the request of the applicants. Whether or not the family of the deceased employee is in penurious circumstances is to be decided by the Administration on making necessary enquiry. After conducting such an enquiry, as has been done in the present case, if the Administration has come to the conclusion that the family is not in penurious condition, the Tribunal cannot substitute its own finding for the finding of the competent authority.

5. In view of the foregoing, we see no reason to interfere in this case. The application is accordingly dismissed without any order as to costs.



(S.DASGUPTA)

MEMBER (A)



(S.N.MALLICK)

VICE CHAIRMAN