

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

Date of order: 25.5.95.

O.A. NO. 193/95

PARTAP SINGH

: APPLICANT

VS.

UNION OF INDIA AND ANOTHER

: RESPONDENTS

Mr. D.C. Sharma, Counsel for the Applicant.

\*\*\*\*

CORAM :

THE HON'BLE MS. USHA SEN, ADMINISTRATIVE MEMBER

\*\*\*\*

BY THE COURT :

This application has been filed seeking the relief for giving compassionate appointment to the applicant and for setting aside the order dated 11.7.94 at Annex.A-4 of the respondents rejecting his application for compassionate appointment.

2. The applicant's father died on 15.1.1966 while working as Constable under the respondent no.2. At that time the applicant was below five years of age. After the applicant passed the Higher Secondary Examination he made an application for compassionate appointment which was rejected by the respondents vide their order dated 5.4.89 (Annex.A-3) and again vide the order dated 19.7.89. Thereafter, the applicant filed an OA in this Bench in which a direction was given on 7.7.93 that in case the applicant applies again for compassionate appointment the application ~~may~~ should be considered sympathetically in accordance with law within three months as the applicant was an indigent person. As the respondents had not

Ush

decided his application ~~as directed by~~ the Tribunal within three months the applicant filed a Contempt Petition in this Bench. The order passed in the Contempt Petition on 26.8.94 as annexed at Annex.A-9 reads as follows :-



"The respondents have taken the decision that the applicant is having monthly income of about Rs.4000/- per month which is earned from the salary of the eldest son, as also the agricultural land and from the pension, which is being received by the applicant. In these circumstances the respondents are of the opinion that the applicant is not entitled for compassionate appointment and we therefore, do not like to proceed further in this matter.

The C.P. is therefore, dismissed, and the notice of contempt is hereby discharged. The applicant may agitate the matter by filing a fresh O.A., if he so wishes. No order as to costs."

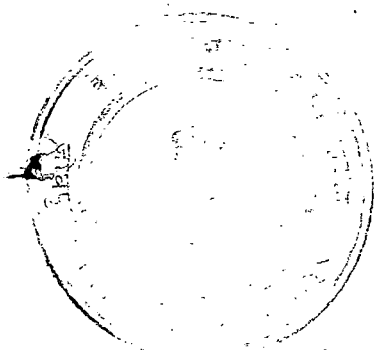
3. In the impugned order dated 11.7.94 at Annex.A-1 by which the applicant was informed by the respondents of the rejection of his application consequent to the decision of this Tribunal dated 7.7.93 supra, it has been stated that "the Ministry after considering the facts and circumstances, total income of the family and the period for which the family had managed to live without the assistance in the form of compassionate appointment, has rejected the application as the principles/scheme laid down by the Government of India for compassionate appointment is intended to render immediate economic assistance to the family of the deceased Government servant, if left in indigent circumstances."

4. The main arguments of the applicant in support of his case are that the fact that the family had some how pulled on for some years without the assistance in the form of compassionate appointment should not be considered

U.S.

as a ground for refusing such appointment in cases where the wards of the deceased employee were minor at ~~that~~ <sup>the</sup> time <sup>of the death</sup>. He has contended that the applicant is in fact a very indigent person whereas the respondents are adamant to declare him a rich man. He has also mentioned that there have been several cases in which the ward of the deceased employee was given compassionate appointment several years after the death of the employee. He has stated that the facts as mentioned in the order dated 26.8.94 in the Contempt Petition supra that the respondents have considered the monthly income of the applicant as Rs.4,000/- are contrary to the reality because in fact the annual income of the applicant is only 11,000/- rupees as certified by the Village Panchayat and Tehsildar, Desuri, vide the certificate dated 19.7.1994 at Annex.A/10.

5. It may be mentioned that considering the law on the subject of compassionate appointments the Madras Bench in its judgment dated 10.8.94 in OA No.P-39/93 has observed as under :-



"The respondents have considered the claim of the applicant and rejected the same on merits. The courts can only direct the department to consider the claim of persons seeking appointment on compassionate grounds if they failed to pass orders on merits. In the present case the respondents have considered the case of the applicant and found that the family is not in indigent circumstances, and rejected the claim of the applicant. Hence, We are unable to agree with the counsel for the applicant that the impugned order is liable to be set aside and the respondents should be directed to give to the applicant appointment on compassionate grounds."

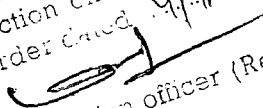
6. Keeping in view the law in the matter and the judgment of the Madras Bench as aforesaid I

Wb

consider that in case the applicant has some complaints regarding the facts about his monthly income not having been considered correctly by the respondents he may approach the respondents again in the matter and in case he so approaches his application in the matter may be replied by the respondents with a speaking order answering all the points that he might raise therein, within a period of three months from the date of submission of such an application. The respondents are hereby directed accordingly. With this direction the OA is disposed of at the admission stage. A copy of the OA may be sent to the respondents alongwith a copy of this order.

*Usha Sen*  
( Usha Sen )  
Member (Admv)

...

Part II and III destroyed  
in my presence on 26/1/74 ms  
under the supervision of  
section officer ( ) as per  
order dated 4/9/73 ms  
  
Section officer (Records) 2

Recd  
5/6/75

Copy of judgment of  
copy of 5A-3 Annexus.  
17022 sent to R-1 to R-2  
By Regd. AD vide  
no 280/0270  
Dated 6.6.75

7/1/75