

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

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Date of Decision: 30.11.2000

OA 3 /97

Sunil Kumar Phophalia, JTO in the O/o Commissioner of
Income Tax, Jodhpur.

... Applicant

v/s •

1. Union of India through Secretary, Finance Deptt.,
Govt. of India, New Delhi.
2. Central Board of Direct Taxes, New Delhi.
3. Chief Commissioner of Income Tax, Rajasthan, Jaipur.
4. Commissioner of Income Tax, Jodhpur.

... Respondents

CORAM:

HON'BLE MR JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... None

For the Respondents

... Mr .U.S .Bhargava

ORDER

PER HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant, Sunil Kumar Phophalia, has prayed for setting aside the order dated 22.5.96 (Ann.A/1) and for a direction to the respondents to offer/appointment to the applicant on compassionate grounds, with all consequential benefits. *Crt 248 A*

2. Applicant's case is that his father, Shri S.L. Phaphalia, who was working as Income Tax Officer, died on 1.10.94 while in service. The applicant applied for compassionate appointment. However, his case was rejected dt. 22.05.96 vide Annexure A/1. Feeling aggrieved, this application has been filed.



3. In the counter it has been stated by the respondents that the applicant's case was thoroughly examined and investigated at different levels and after carefully considering the case, the competent authority did not find it possible to appoint the applicant on compassionate grounds. It has also been pointed out by the respondents that the applicant's father had died on 1.10.94 and the family has survived till date without any compassionate appointment. They have also referred to the observations of Hon'ble the Supreme Court in Umeshkumar Nagpal v/s State of Haryana & Ors., reported at 1994 (1) SCC (L&S) 138, which reads as under :-

"The whole object of granting compassionate appointment is to enable the family to tide over ~~the~~ sudden crises on the death of its sole bread winner. It is not the intention that the member of the family should

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be given a post equal to the one held by the deceased. Further, the mere death of an employee in harness does not entitle his family to such source of livelihood. The financial condition of the family of the deceased should be examined, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family."

In the circumstances, it has been averred by the respondents that the application is devoid of any merit and deserves dismissal.

4. The case was earlier heard on 1.11.2000 but the learned counsel for the applicant was not present on that date and the case was adjourned to 3.11.2000. The learned counsel for the applicant could not present himself on that date also, and the learned counsel for the respondents was heard. We have also gone through the case file carefully.

5. It is admitted that the applicant's father had expired on 1.10.94. It is also admitted that the applicant's elder brother had been working as LIC Agent. The applicant had submitted the initial application for compassionate appointment without giving full details, which were

Capable of

S.17

furnished subsequently by the applicant vide his letters dated 6.12.94 (Ann.A/3) and 5.12.95 (Ann.A/8). It is seen from the details furnished by the applicant that the applicant's mother is in possession of immoveable property worth approximately Rs.150000/-. The applicant has also admitted moveable property in the form of bank balance.

The case of the applicant for compassionate appointment was examined by the Board and it was not found feasible to accede to the request of the applicant. It is also a fact that the applicant's father died in the year 1994 and the family ~~is~~ has survived so far, and in the light of the observations of Hon'ble the Supreme Court cited above, compassionate appointment is meant to enable the family to tide over the sudden crises on the death of its sole ~~or~~ bread winner. It is more than six years now that the applicant's father died and the family has survived so far. In the circumstances, we are of the view that the financial position of the family was not such as to require compassionate appointment. It is also seen from the application, at Ann.A/2, that under the heading 'liabilities', Sunil - the son of the deceased, aged about

Capacity



23 years, was shown as unemployed. There was no other liability shown in this case. Compassionate appointment matter of ~~the~~ is not a right. It can be given only after due consideration of the financial circumstances of the bereaved family.

In the circumstances of the present case, we are of the view that the request for compassionate appointment by the applicant has rightly been rejected by the respondents. Thus, the case does not require our ~~any~~ interference.

6. The OA is accordingly dismissed with no order as to costs.

Capas
(GOPAL SINGH)
MEMBER (A)


(B.S. RAIKOTE)
VICE CHAIRMAN

Copy of order 437 sent to court for approval
on 3/97 and dated 20/11/2000 passed
to court for approval

Copy of order 437 sent to court for approval
on 3/97 and dated 20/12/2000
Part II and III destroyed
in my presence on 27/2/07
under the supervision of
Section Officer as per
order dated 10/11/06

Section Officer (Record)