

XV

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 394/2012

Jodhpur this the 03rd day of July, 2013.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

1. Aarif Khan S/o Shri Rafiq Ahmed Khan, aged about 29 years, R/o Guljarpura, Uparla Baas, Behind Teliyon Ke Madarse, Jodhpur. (His father last working under respondent No. 3)
2. Smt. Sharifan W/o Late Shri Ahmed Khan, aged about 50 years, R/o Guljarpura, Uparla Baas, Behind Teliyon Ke Madarse, Jodhpur.

.....Applicants

(Through Advocate Mr Kamal Dave)
Versus

1. Union of India through the Secretary Ministry of Information and Broadcasting, Govt. of India, New Delhi – 110001.
2. The Deputy Director General (E), Prasar Bharti, Broadcasting Corporation of India, All India Radio, Rajkot - 360001.
3. The Director, Prasar Bharti, (Broadcasting Corporation of India), Akashvani, Pandit Sita Ram Marg, Near Race Course, Rajkot - 360001.

(Through Advocate Ms K. Parveen)

4. Smt Kausher Rafiq Khan, 8, Subhas Nagar, Opp. Khoza Zamat Khana, (Dandh Sheri), Raiya Road, Rajkot – 360005, Gujarat.

(None present)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

By way of this OA, the applicant has sought following relief

(s):

- (a) **That the respondents may kindly be directed to consider the case of the applicant No. 1 for compassionate ground in**

✓3

for furtherance of his application pending with the respondent department.

- (b) The retiral benefits and family pension may kindly ordered to be disbursed in favour of the applicant No. 2 Smt. Sharifa wife of late employee Rafiq R Ahmed.
- (c) Any other appropriate order or direction, which may be considered just and proper in the light of above, may kindly be issued in favour of the applicant.
- (d) Costs of the application may kindly be awarded in favour of the applicant.

2. The short facts of the case are that the father of the applicant No. 1 and husband of applicant No. 2 was working in the respondent-department and he died while in service. He nominated the applicant No. 2 for Group Insurance and GPF benefits being his wife. The applicant No. 1 being son of the deceased employee filed an application for compassionate appointment in respondent-department and received a communication from the competent authority to move the application in requisite format. Deceased employee late Rafiq Ahmed Khan contracted second marriage with respondent No. 4 and department without protecting legal right of the applicant No. 2 for family pension and other pensionary benefits disbursed the same to respondent No. 4 and even the application for compassionate appointment is being kept pending in disregard to the very object of earliest assistance.

3. The respondents No. 1 to 3 have filed a reply denying the right of the applicant No. 1 of consideration for appointment on compassionate grounds. It is also averred in the reply that the

✓2

applicants have no right to file such an application and preliminary objection of territorial jurisdiction has also been raised in the reply.

4. The respondent No. 4 has filed a separate reply. The preliminary objection of territorial jurisdiction has also been averred in the application. The respondent No. 4 further averred in the reply that she is legally married wife of late shri Rafiq Ahmed Khan who expired on 12.06.2011 at Rajkot and she contracted the marriage with the respondent No. 4 at Rajkot and she filed Annex. A/1 with the reply in this regard. Late shri Rafiq Ahmed Khan was employed at Rajkot and he had received salary from the All India Radio, Rajkot Office, at Rajkot, therefore, this office has no jurisdiction.

5. By way of rejoinder the applicants denied the objection raised in the reply and averred that as per rule 6 of CAT Rules, 1987, the applicants can file the present OA in the CAT Jodhpur Bench, Jodhpur and also because applicants are residing at Jodhpur.

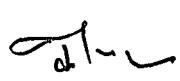
6. Heard the counsel for the applicant as well as respondents No. 1 to 3 and perused the reply filed by the respondent No. 4.

7. We have considered the preliminary objection raised by the respondents regarding territorial jurisdiction but in view of the rule

6 (2) which provides that "Notwithstanding anything contained in sub-rule (1), a person who has ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application." In the present case the applicants are not persons who have ceased to be in service, but are legal heirs of the deceased employee being aggrieved persons with reference to benefits accruing from the death of the deceased employee and are residing at Jodhpur and as such they have filed an application within the territorial jurisdiction of this Tribunal. Accordingly, preliminary objection raised by the respondents is not sustainable.

8. Counsel for the respondent-department submits that the application filed by the applicant for consideration of appointment on compassionate grounds is pending before the competent authority and still they have not taken any decision on the application and counsel for the applicants also agrees to this position. Accordingly, we are proposing to dispose off this OA with a direction to respondents No. 1 to 3 to consider the application of the applicants for appointment on compassionate grounds within 6 months from the date of receipt of this order.


 (MEENAKSHI HOOJA)
 ADMINISTRATIVE MEMBER


 (JUSTICE K.C. JOSHI)
 JUDICIAL MEMBER