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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. No. 468/91

Pradeep Kumar Sharma

Applicant

versus

Union of India & others

Respondents.

Shri D.K. Raizada
Shri A.K. Chaturvedi

Counsel for Applicant
Counsel for Respondents.

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Hon. Mr. S.N. Prasad, Member Judicial.

The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer to issue direction to the respondents to give appointment to the applicant on Class III or class IV post in the Department of Telecommunications on compassionate grounds due to death of father of the applicant who died in harness.

2. Briefly stated, the facts of the case, inter alia, are that the father of the applicant Shri Bachulal was working on the post of Beldar in the Telecommunications Department in the office of respondent No. 3, who died in harness on 23.10.88 while he was in service as Beldar (class IV) in the aforesaid office of Telecommunications department. The aforesaid Bachulal died leaving behind him his son (the applicant) and his widow ^{applicant} Smt. Shanti Devi and ^{four sons who are younger to the} there is no source of livelihood ^{and younger brother} of the applicant and the aforesaid widow ^{excepting her}

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meacre - family pension amounting to Rs 710/- per month. The applicant is an unemployed youth. The applicant has obtained legal heirship certificate from the office of the District Magistrate, Lucknow, photo state copy whereof is Annexure A-4. Educational qualification of the applicant is Intermediate and he also possesses good knowledge of English typing and shorthand and has got his name registered in the Employment Exchange concerned. Since the applicant was refused appointment on compassionate ground, as per letter dated 20.9.91, signed by the ^{Assistant} Director Telecommunications (recruitment) which is Annexure A-11, the applicant has approached this Tribunal for redressal of his grievances, as indicated above.

3. In the counter reply filed on behalf of the respondents, it has been contended inter alia, that the applicant's application was considered by the competent authority and thereafter, the order dated 20.9.91 (Annexure A-11) was passed. It has further been contended that the aforesaid ^{deceased} Bachulal's family comprised of six sons and his wife and out of six sons 2 sons, namely S/S Shri Krishna Kumar Sharma and Anil Kumar Sharma ^{who} are already employed and are working as Beldar (Group D) in the Department and they are residing with their mother and the applicant in the same house. It has further been contended that a lump sum amount of Rs 34,683/- was paid to the dependents of the deceased employee as Death-cum-Retirement Gratuity etc. and as such the financial position of the applicant is not indigent requiring immediate

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need of assistance and as such the application of the applicant be rejected.

4. Rejoinder has been filed by the applicant wherein, besides reiterating the view points set out in the main application, the applicant has asserted that two sons of the aforesaid deceased Bachula, namely Krishna Kumar Sharma and Anil Kumar Sharma are in service since 1984 i.e. about more than 4 years prior to the death of the aforesaid deceased Bachulal and it is further asserted that both the aforesaid Krishna Kumar Sharma and Anil Kumar Sharma are living separately from the applicant and their widow mother since 1985, i.e. during the life time of the deceased Bachulal.

5. I have heard the learned counsel for the parties and have perused the record, of the case.

6. This is worthwhile mentioning this fact ~~fact~~ that a perusal of impugned order dated 20.9.91 (Annexure A-11) shows that the claim of the applicant was discarded on the ground that two sons of the aforesaid deceased Bachulal have been in employment and as such financial position of the family of the applicant is not pitiable. In this context it is important to point out that the above order dated 20.9.91 nowhere reveals or indicates



clearly about the fact as to whether the aforesaid two persons of the aforesaid deceased Bachulal, who are in employment, have been living in the same family having common fooding and lodging alongwith the applicant and the aforesaid widow or otherwise.

7. With a view to appreciating the factors and viewpoints for giving appointment to the son/daughter/near relative of deceased government servant, guidelines and directions have been issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi dated 30th June, 1987 and the eligibility criteria and to whom the guidelines and directions be applicable, have been provided in the aforesaid office Memorandum dated 30th June, 1987. Para 1(a) of the aforesaid office Memorandum provides that compassionate appointment be given to a son or daughter or near relative of a government servant who dies in harness including death by suicide, leaving his family in immediate need of assistance when there is no other earning member in the family and para 1(b) provides that in exceptional cases when the department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be extended to son/daughter/near relative of a government servant retired on medical grounds under rule 38 of Central

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Civil Services Regulations that before attaining the age of 55 years, in case of group "D" employees whose ^{~ is ^} ~~normal~~ normal age of superannuation ^{is} ~~is~~ 58 years, compassionate appointment may be considered, where they are retired on medical grounds before attaining the age of 57 years.

Para 9 of the aforesaid office Memorandum shows that source of financial assistance received by the family of the deceased government servant, be also kept in view while deciding the financial position of the dependants of the deceased.

8. After considering all the facts and circumstances of the case and all aspects of the matter, it is found that the above impugned order dated 20.9.91 is not categorical and unequivocal regarding the jointness or separation of the sons including the aforesaid Anil ^{~ Sharma} Kumar/ and Krishna Kumar Sharma.

9. This is needless to emphasize that keeping in view the ^{salutary} provisions of giving appointment to ^{daughter} the dependants/sons/near relatives of the deceased, the crucial point which plays a decisive role, must be clarified as to whether the employed sons of the deceased government servants are/or have been living separately since the life time of the deceased or have been living jointly with the other family members of the ^{~ including the applicants} deceased. Besides this, the financial position of the family member of the ^{~ applicant} is also to be ascertained as to whether the financial position of the applicant including the

widow of the deceased and other dependants of the deceased, who are living alongwith the applicant, needs immediate assistants by way of giving appointment to the applicant on compassionate grounds. As observed above, it is found that the impugned order dated 20.9.91 is not quite reasoned & speaking ~~is~~ and as such I find it expedient that the ends of justice would be met if the respondents be directed to consider the propriety of the claim of the applicant keeping in view the extant, rules, ~~and~~ regulations and orders and above directions provided in the above office

Memorandum dated 30.6.87 and take a decision for for redressal of the grievance of the applicant after satisfying in all respects and finding the applicant to be entitled for the same, within a period of three months from the date of receipt of a copy of this judgment, and I order accordingly.

10. The application of the applicant is disposed of as above with no order as to costs.


Member Judicial.

Lucknow: Dated: 4.9.92

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