

**Reserved**

**Central Administrative Tribunal Lucknow Bench Lucknow**

**Original Application No. 291/2011**

**This, the 12<sup>th</sup> day of April, 2013**

**Hon'ble Mr. Navneet Kumar, Member (J)**

Vishal Shukla aged about 28 years, S/o Late Uma Khant Shukla, R/o 607, Rajendra Nagar, Lucknow.

**Applicant**

**By Advocate Sri S. P. Singh.**

**Versus**

1. Union of India through the Secretary to the Government of India, Ministry of Broadcasting and Communication, New Delhi.
2. Chief Executive Officer/ Chairman, Prasar Bharti, Secretariat, Broadcasting Corporation of India, 11nd Floor, PTI Building, Sansad Marg, New Delhi-11001.
3. D. G. Prasar Bharti Doordarshan, Doordarshan Bhawan (S-II Section) New Delhi.
4. Station Director, AIR, Lucknow.
5. Director, Doordarshan Kendra, Lucknow.
6. The Station Engineers, Doordarshan Maintenance Centre, 517, Civil Lines, Gwalior Road, Janshi.

**Respondents**

**By Advocate Sri Pankaj Awasthi for Sri R. Mishra.**

**(Reserved on 5.4.13)**

**ORDER**

**By Hon'ble Mr. Navneet Kumar, Member (J)**

The present O.A. has been preferred by the applicant under Section 19 of the Central Administrative Tribunal Act, 1985 with the following reliefs:-

- (i) Issue order or direction quashing the earlier order and the impugned order, dated 30.11.2010 after summoning it in original on the respondents.
- (ii) Issue a order to the respondents to consider the applicant for appointment under dying in harness Rules within a time bound period on suitable post as per his qualification.

(iii) Any other order or directions, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case may also be passed in favour of the applicant.

2. The brief facts of the case are that the applicant submitted an application for grant of compassionate appointment due to demise of his father Uma Kant Shukla who was appointed as Accountant in the Doordarshan. It is also claimed that his rejection order dated 30.11.2010 is illegal and without any basis. The learned counsel for the applicant has categorically mentioned that after the death of the applicant's father, who died in 2008, the applicant submitted an application in July 2009 and after considering the claim of the applicant, it was finally rejected vide order dated 30<sup>th</sup> November, 2010. The learned counsel for the applicant has also pointed out that the circular dated 5.5.2003 was quashed by the Hon'ble High Court in the case of Hari Ram Vs. Food Corporation of India and others. As such, the action of the respondents is arbitrary and the applicant is entitled to be considered for compassionate appointment.

3. The learned counsel appearing on behalf of the respondents filed their preliminary objection as well as the counter reply and through counter reply, it was categorically pointed out by the respondents that mother of the applicant is a recipient of a family pension @ Rs. 10025/- per month in addition to the said amount, a gross payment of Rs. 14,04,000/- approximately was received as death-cum-retirement benefits in the year 2008 and the case of the applicant was considered twice for compassionate appointment in 

its meeting held on 12.1.2010 for appointment against the vacancies occurred in 2009 and on 29.11.2010 for appointment against the vacancies occurred in 2010. The case of the applicant was finally considered by the authorities and finally, it was rejected. The learned counsel appearing on behalf of the respondents has also pointed out that since the family of the applicant is not in any hardship, as such, the case of the applicant cannot be considered for grant of compassionate appointment. Accordingly, it was rejected vide order dated 30<sup>th</sup> November, 2010 and there is no illegality in the same.

4. The learned counsel appearing on behalf of the applicant filed reply to the preliminary objections as well as the rejoinder reply and through rejoinder, mostly averments made in the O.A. are reiterated and it has been pointed out that the case of the applicant should have been considered as per the New Scheme issued by the DOP&T dated 26<sup>th</sup> July 2012.

5. Heard counsel for the parties and perused the record carefully.

6. Admittedly, the applicant's father, who was working in the respondents organization died in harness in 2008 and the applicant made an application for grant of compassionate appointment in 2009 and the said application was finally rejected and the rejection order was issued vide letter dated 11.3.2011 stating there in that the case of the applicant was considered but the same was not recommended by the competent authority. The learned counsel appearing on behalf of the applicant has not denied this aspect that the

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mother of the applicant is getting family pension of Rs. 10025/- and approximately a sum of Rs. 14,04,000/- was received as death-cum-retirement benefits. The case of the applicant was duly considered by the competent authority two times as stated in their counter reply i.e. in 2009 and subsequently in 2010 and on both these occasions, the case of the applicant could not be found suitable for compassionate appointment. As such, the same was rejected by the competent authority. As observed by the Hon'ble Apex court in the case of **Umesh Kumar Nagpal Vs. State of Haryana 1994 SCC (L&S) 930**, the Hon'ble Apex Court has been pleased to observe as under:-

“The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, 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. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency.”

7. The Hon'ble Apex Court has also been pleased to observe in the case of **State Bank of India and Others Vs. Raj Kumar reported in (2010) 11 SCC 661** and has been pleased to observe that the compassionate appointment is not a source of recruitment. It is an exception to general rule, that recruitment to public services should be on basis of merit, by open invitation, providing equal opportunity to all eligible persons to participate in selection process. Further it was observed by the Hon'ble Apex Court as Under:-

"8. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the Rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis."

In the case of **State of Chhattisgarh and Others Vs. Dhirjo Kumar Sengar reported in (2009) 13 SCC 600**, the Hon'ble Apex Court has been pleased to observe as under:-

"10. Appointment on compassionate ground is an exception to the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. Nobody can claim appointment by way of inheritance. In SAIL Vs. Madhusudan Das this Court held: (SCCP. 566 Para 15)

"15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefore viz. that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme must be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a defendant of a deceased employee is an exception to the said rule. It is a concession, not a right."

12. This Court, times without number, has held that appointment on compassionate ground should not be granted as a matter of course. It should be granted only when dependants of the deceased employee who expired all of a sudden while being in service and by reason thereof, his dependents have been living in penury."

8. Considering the observations made by the Hon'ble Apex Court and also on the basis of the facts of the case, the applicant's mother is getting a family pension and also received good amount towards retiral dues and the case of the applicant was considered twice by the competent authority for grant of compassionate

appointment, as such, I am not inclined to interfere in the present O.A., the O.A. is fit to be dismissed.

9. Accordingly, it is dismissed. No order as to costs.

VR. Agarwal  
(Navneet Kumar)  
Member (J)

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