

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No. 355 of 1996

Date of order 29-6-1998

1. Kumari Kumud, daughter of Late Balmiki Prasad, Jheelganj Astabal, Nai Godown, Gaya-823001.
2. Mrs. Anuradha Devi, widow of Late Balmiki Prasad, Jheelganj, Astabal, Nai Godown, Gaya-823001.

... Applicants

-versus-

1. Union of India, represented through the Secretary, Ministry of Finance, New Delhi.
2. The Chief Commissioner (Admn.), Income-Tax, Headquarters Patna (Bihar).
3. The Commissioner of Income Tax, Patna.
4. The Assistant Commissioner of Income Tax (Headquarters), Patna, Bihar.

... Respondents

CORAM: Hon'ble Shri L.R.K. Prasad, Member (A)

Counsel for the applicants .. Shri C.G. Prasad.

Counsel for the respondents .. Shri Lalit Kishore.

ORDER

Hon'ble Shri L.R.K. Prasad, Member (A):-


This O.A. has been moved for issuance of a direction to the respondents for giving appointment to Kumari Kumud, the applicant no.1, on compassionate ground.

2. The fact of the case is that on the expiry of Balmiki Prasad on 31.5.1987 while posted as Tax Recovery

Officer, his wife (applicant no.2) applied for appointment of applicant no.1 (daughter of late Balmiki Prasad) on compassionate grounds (Annexure-A). She (applicant no.2) stated that her late husband left behind ~~six dependents~~ including applicant no.1. Necessary details were sent to the respondent no.3 vide letter dated 1.2.1990 (Annexure A/1) and a proforma application duly filled in (vide petition dated 26.7.1990-Annexure-A/2) in response to the letter of the respondent. The information (Annexure A/3) as required by the respondent no.4 were furnished to him vide letter of applicant no.2 dated 17.09.90 (Annexure A/4). However, sometime on 5.12.1994, she was informed that their application for appointment on compassionate ground were dropped without any enquiry. On 8.12.1994 a representation explaining the matter was sent to respondent no.1 (Annexure A/5). Thereafter ~~she~~ received a communication dated 7.7.1995 (Annexure A/6) from respondent no.4 that her application dated 8.12.1994 had been dismissed after careful consideration. She has, therefore, alleged, that her claim has been rejected without considering the facts and circumstances of the case. The respondents have by-passed the guidelines contained in circular No.182/87 of GOI, Ministry of Finance letter No.12/133/87 Coord dated 13.7.1987 according to which the applicant no.1 is entitled for such benefits on compassionate ground. This circular is at Annexure A/7. In view of aforesaid facts, applicants have sought following relief:-

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- (a) The applicant no.1 is entitled for appointment on compassionate ground under the circular at Annexure A/7.
- (b) The respondents may be directed to consider the case of the applicant for appointment to a suitable post.

(c) The decision of respondents as at Annexure A/6 be set aside.

3. The respondents have filed written statement stating that this O.A. is not sustainable because the applicants are not entitled for the reliefs sought. It was asserted by the respondents that vide letter dated 24.9.1990 the applicant was informed that the application for compassionate appointment of the applicant no.1 could not be proceeded further. This decision was taken after careful consideration of all relevant facts including eligibility criteria. Moreover, the brother of applicant no.1 was employed as Inspector in the Central Excise and ~~Custom~~ Department and there was no documentary evidence to prove that he was separated from the family. The fact that the mother of the applicant no.1 received considerable terminal benefit, ~~amounting to Rs.212857/-~~ ^{and} ~~Rs.1345 p.m. as pension~~ following the death of her husband, was also taken into consideration before rejection of the application in question.

In view of above, the respondents expressed the view that the applicant was not in immediate need of assistance.

The applicants had their own house. It was pointed out that the main thrust in the circular dated 30.6.1983 issued by GOI (Department of Personnel & Training) is on selection approach in such appointment on compassionate ground. It is well settled that the compassionate appointment cannot be claimed as matter of right.

4. The applicants have filed rejoinder to the written statement, clarifying the family position and rebutting the assertion of the respondents that their case was rejected after due consideration of the facts and circumstances of the matter by the respondents. Late Balmik Prasad at the time of

his death on 31.5.1987 left behind his widow, four daughters and one son, who was already employed. As the eldest daughter was deserted by her husband, she along with her two children became dependant on her father. She has got two unmarried daughters including applicant no.1. Her son is posted at Motihari. Out of the terminal benefits, Rs.41788/- (CGE Group Insurance Scheme) was paid to her son as he was the nominee. Whatever she received, she performed the marriage of her son and fourth daughter. She reiterated that her family is in dire need of appointment on compassionate ground. She has also stated that as no favourable action was taken by the respondents on her application for appointment on compassionate ground, and as applicant no.1 was advancing in age, she got her married on 23.5.1994 with an unemployed boy, namely, Sanjay Kumar Sinha, who is not in a position to keep her in her paternal house. As a result of this applicant no.2 has to maintain applicant no.1 along with her son-in-law as dependant. Therefore, she has claimed that the case of applicant no.1 is most deserving in the light of clause 4(e) of the circular dated 13th July, 1987 as at Annexure A/7.

5. I have heard the learned counsels for the parties and perused the materials on record. While posted as Tax Recovery Officer Balmiki Prasad (the late husband of applicant no. Recovery Officer Balmiki Prasad died on 31st May, 1987 leaving behind his wife and five dependants including applicant no.1. Thereafter, applicant no.2 (wife of Late Balmiki Prasad) applied to the authorities for appointment of applicant no.1 (daughter of late Balmiki Prasad) on compassionate grounds (Annexure- A). She received a communication dated 7.7.1995 (Annexure A/6) from respondent no.4, informing her that her application dated 8.12.1994 has been dismissed after careful consideration.

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The applicants have alleged that their claim has been rejected without considering the facts and circumstances of the case and by ignoring the guidelines contained in circular No.182/87 dated 13.7.1987 of Govt. of India (Annexure A/7). On the other hand, the respondents have clearly stated that the representation of the applicant for compassionate appointment of applicant no.1 was rejected after due consideration including the eligibility criteria and keeping in view the relevant circular of Govt. of India on the subject of compassionate appointment. It is an admitted fact that applicant no.2 received considerable terminal benefits, following the death of her husband, as has been stated by the respondents. It appears that the son of applicant no.2, Shri Shakti Bhushan, is employed as Inspector in the Department of Custom & Central Excise. The applicant no.2 has herself stated that the applicant no.1 was got married on 23.5.1994 with one Shri Sanjay Kumar Sinha.

On the subject of compassionate appointment of son/daughter/near relative of deceased Government servants, circular No.182/87 through letter No.F.No.12/133/87-Coord, GOI, Ministry of Finance, dated 13th July, 1987 was issued. Some of the important guidelines, relevant to this case, contained in the aforesaid circular are given below:-

To whom applicable:

To a son or daughter or near relative of a Government servant who dies in harness leaving his family in immediate need of assistance, when there is no other earning member in the family.

Eligibility:-

- (a) Compassionate appointments can be made only against direct recruitment quota.
- (b) Applicants for compassionate appointment should be appointed only if they are eligible and suitable for the post in all respects under the provision of the relevant Recruitment Rules.
- (c) Departments are, however, competent to relax temporarily educational qualifications in the

case of appointment at the lowest level i.e. Group 'D' or LDC post, in exceptional circumstances where the condition of the family is very hard. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the persons concerned if still unqualified, are liable to be terminated.

(d) Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirements of educational qualifications, provided the duties of the post can be satisfactorily performed without having the educational qualification of Middle standard prescribed in the Recruitment Rules.

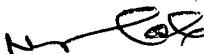
(e) In deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who before approving the appointment, will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the deceased Government servant and whether he should not be a source of support of the other members of the family.

The applicants have relied on guideline 4(e) of the circular No.182/87 dated 13th July, 1987 (Annexure A/7). The respondents have already pointed out that main thrust in this circular is of selection approach in such appointment on compassionate ground. The compassionate appointment cannot be claimed as a matter of right. The basic approach is whether the family is in immediate need of assistance after the death of a Government servant who dies in harness. There is a provision that in deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the concerned Department who has to satisfy himself that the ground of concession is justified having regard to the number of dependents, the assets and liabilities

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left by the deceased Government servant, the income of the earning member, etc. In the instant case Balmiki Prasad died in 1987. The applicant no.2 has already received a considerable amount as terminal benefits, following the death of her husband. The applicant no.1 has been married in 1994. The matter has been duly considered by the Department as has been explained in the written statement of the respondents.

In view of the facts and circumstances stated above, the applicant no.1 does not qualify for appointment on compassionate ground. Therefore, after taking into consideration the submissions made by both the parties and the materials on record, I am of the view that this O.A. does not have any merit. It is accordingly dismissed with no order as to the costs.


(L.R.K. Prasad)
Member (A)