

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. No. 231 of 06

Date of order : 14. 9. 2007

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

1. Basanti Upadhyay, W/o Late Ramashish Upadhyay, r/o Mohall A 323, A.G. Colony, Post Office – Ashiana Nagar, P.S. Shastri Nagar, Patna.
2. Avinash Kumar, S/o Late Ramashish Upadhyay, r/o Mohall A 323, A.G. Colony, Post Office – Ashiana Nagar, P.S. Shastri Nagar, Patna.

Applicants

By Advocate : Shri R.K. Verma and Shri Shailendra Kumar
Vs.

1. The Union of India through the Comptroller and Auditor General of India, New Delhi.
2. The Principal Accountant General [Audits and Accounts] Bihar, Patna.
3. The Accountant General [Accounts] Bihar, Patna.
4. The Accountant General [Audits] Bihar, Patna.
5. The Senior Audits Officer, [Administration] Office of the Principal Accountant General [Audits and Accounts] Bihar, Patna.

Respondents

By Advocate : Shri M.D. Dwivedi.

ORDER

Sadhna Srivastava, M [J] :- The applicant seeks quashing of the order dated 24.6.05 [Annexure A/7] issued by respondent No. 5. Further, there is a prayer to appoint applicant No. 2 on compassionate grounds.

2. The facts, in brief, are that the husband of applicant No. 1



while working as Senior Auditor in the office of the Principal Accountant General [Audits and Accounts], Bihar, Patna died in harness on 21.12.2000, leaving behind widow, three sons and two daughters. After the death of her husband the applicant No. 1 applied for appointment of her 3rd son on compassionate grounds. The case of applicant No. 2 was considered by the Screening Committee but rejected vide impugned order on the ground that it is not a fit case for grant of compassionate appointment.

3. I have heard learned counsel for both the sides and perused the pleadings as well.

4. The learned counsel for the applicant has challenged the impugned order mainly on the ground that the same is arbitrary and unjustified. He further submits that as per instructions issued by the Government of India, while considering the request for appointment on compassionate appointment, a balanced and objective assessment of the financial condition of the family of the deceased employee has to be made, which has not been done in the present case. Therefore, the order is liable to be set aside. He further contended that the terminal benefits received by the family of the deceased employee cannot be a ground for rejecting the compassionate appointment. He placed reliance on cases reported in 2003, PLJR [1] page 393; Kunti Tiwary vs. G.M., Zonal Bank Office and



Others and also on Balbir Kaur & Others vs. S.B.I.L, reported in 2000 [2] Supreme Today page 602.

5. I have carefully gone through the judgments cited by learned counsel for the applicant and found that even in these judgments the principle followed is the same that financial stringency and hardship is to be seen, and what has been held in the judgment is that the case cannot be rejected merely on the ground that the family has got terminal benefits. In the instant case, the applicant's case has not been rejected merely on the ground of terminal benefits, but after assessing the financial conditions of the family, and by seeing the assets and liabilities left by the deceased employee, the screening committee has rejected the request of applicant for appointment on compassionate grounds.

6. In the written statement the respondents allege that the screening committee did not find the case of the applicant fit for appointment on compassionate grounds due to reasons that the deceased government servant , late Ramashish Upadhyay had died at the age of 59 year and four months and had only 8 months of service left; that his daughters were already married; that his eldest son was employed and that the family of the deceased employee received over 5.70 lakhs as terminal benefits, which is more the limit prescribed ^{Under} circular dated 19.2.2003. They further allege that only in three cases the appointment on



compassionate grounds were approved by the screening committee. In the first case, the deceased government servant had 14 years of service left. He died at the age of 46 years leaving behind his widow and three minor sons. The widow was considered for appointment. In the second case, the deceased government servant had 10 years of service left. He left behind one sons and two unmarried daughters and in the 3rd case, the deceased government servant had 12 years and 4 months of service left. He left behind two studying son and one unmarried daughter and widow who is unable even to walk. No other appointment has been made on compassionate ground on the basis of interview held on 6.9.2004 and 15.9.04.

7. It has repeatedly been held by Hon'ble Supreme Court that the appointment on compassionate grounds is by way of exception. It is not a mode of recruitment to public service. The same is to be done within the limited quota of five per cent and on the grounds of financial distress. The law is also settled that the Courts or the Tribunals cannot give direction to give compassionate appointment. At best, they can direct the respondents to consider the case, as there may be many more deserving cases which could be known only to the department and not to the courts. Therefore, no such direction can be given straightway to appoint the applicant on compassionate grounds. The respondents have rejected the claim of the



applicant, after taking into consideration the financial conditions of the applicant and found that in the absence of the bread earner, the family of the deceased is not in indigent condition. Moreover, the deceased had only 8 months of service left before his normal superannuation. It is not a case that the deceased had died at the young age, leaving behind the widow and small children in destitute or indigent condition. The judgments relied upon by the learned counsel for the applicant would not be applicable to the present case in view of the discussion as made above. The applicant cannot claim compassionate appointment as a matter of right or as a line of succession, simply because his father had died in harness.

8. In view of the above, the OA is dismissed without any order as to the costs.



[Sadhna Srivastava] M [J]

/cbs/