

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Date of Order:- 17.11.06

Registration No. OA-632 of 2005

CORAM

Hon'ble Km Sadhna Srivastava, Member (J)

Satya Priya Kumar

....Applicant

-By Shri S. Prasad, Advocate

Versus

The Union of India & Others

.....Respondents

-By Shri M.K.Mishra, Sr. Central Government Standing Counsel

ORDER

Hon'ble Km Sadhna Srivastava, Member (J) :- This OA is against the order dated 12.5.2005 (Annexure OA-1) whereby the applicant's request for compassionate appointment has been reconsidered and rejected by the respondents pursuant to the Court's direction given in OA-547 of 2001. This is a detailed and reasoned order wherein the authority has stated that the applicant's father expired on 19.12.1999 while in service leaving behind his widow and ^{3a}son. The family of the deceased employee was paid terminal benefits amounting to Rs. 4,96,534 and the widow is also getting family pension @ Rs.3,100/- per month plus D.A. Relief. The family owns a house (three rooms) for residential purpose at their native place in Bihar. Therefore, looking on the number of assets and liability left by the deceased employee it was held that the family was not in indigent circumstances. Therefore, he is not entitled to compassionate appointment.

2. I have heard the counsel for both the parties and perused the pleadings.



3. The applicant's counsel has challenged the above order on the ground that it is well settled law that the terminal benefits cannot be a ground for rejecting the compassionate appointment. He further submitted that the applicant fulfils the condition prescribed for appointment of a post of Group C and his father died while on duty leaving behind the family in indigent condition, therefore, the applicant is entitled and the order dated 12.5.2005 is illegal and liable to be set aside by this Tribunal.

4. While contesting the case the respondents have filed a reply stating therein that the case of the applicant for compassionate appointment was reconsidered by the competent authority in the light of the latest Government instruction on the subject. However, taking into account overall economic conditions of the family of the deceased employee, the government servant, his age, size of the family and also non-availability of Groups C & D posts under compassionate appointment quota his request was not acceded to. In the supplementary reply the respondents have further stated that there were 41 vacancies in Groups C & D posts meant for compassionate appointment. 104 applicants were taken into consideration including the applicant and only 39 cases were recommended for compassionate appointment while cases of 65 candidates were not recommended. The respondents have further submitted that taking into overall economic condition of the family the applicant was not found fit for compassionate appointment.

5. ^{The} Law on compassionate appointment is well settled by now by the Hon'ble Supreme Court that compassionate appointment can neither be sought as a matter of right nor as line of succession. In fact, Government of India has issued instructions to all the departments to consider the cases of those persons who seek compassionate appointment and in case, it is found

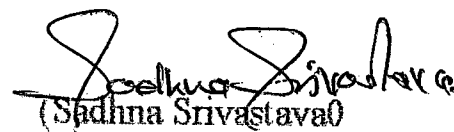
that family of deceased employee is in total destitute condition and they need immediate assistance to tide over the crisis left behind him by sudden death of employee, only in such circumstances the compassionate appointment should be granted that too subject to the ceiling of 5% vacancy in direct recruitment. In the instant case the applicant's case has not been rejected merely on the ground of terminal benefits, but after seeing financial condition of the family by seeing assets and liabilities of the deceased family, the respondents came to the conclusion that the family can survive in the present circumstances in the absense of the bread-earner.

6. In Umesh Kumar Nagpal Vrs. State of Haryana (1994) SCC (L & S) 930 ~~by Apex Court~~ it was held that public service appointment should be made strictly on the basis of open invitation of applications and on merits. The appointment on compassionate ground cannot be a source of recruitment. It is merely an exception to the requirement of law keeping in view the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases, the object is to enable the family to get over sudden financial crisis. This favourable treatment to the dependant of the deceased employee must have clear nexus with the object sought to be achieved thereby i.e. relief against destitution. So, the whole object for grant of compassionate appointment is to entitle the family to tide over the sudden crisis. Mere death of employee is not sufficient to entitle the dependant of the deceased family for compassionate appointment.

7. It has been repeatedly held by the Hon'ble Supreme Court that the compassionate appointment cannot be given as a separate mode of appointment for survival of the deceased family as they should also compete with others in the normal course and compassionate appointment is only to be given in an exceptional and hard case. The law is also well settled that

the Courts and the Tribunal cannot give direction to give the compassionate appointment. At best Courts can direct the respondents to consider the case as there may be many more deserving cases which would be known only to the department and not to the Court. Therefore, no such direction can be given straight way to give compassionate appointment to the applicant. Even otherwise on the direction of the Tribunal the authorities have already reconsidered the matter and according to me they have taken the right decision because the deceased employee has not left any major liability. The family owns a house and received sufficient money by means of terminal benefits and is receiving family pension to survive. It is not a case where the deceased employee has died at young age leaving the widow and small children in destitute condition or in indigent condition. By no stretch of imagination can the reasoning be said to be unjustified or arbitrary and is based on the judgment and principle laid down by the Hon'ble Supreme Court. The applicant cannot claim compassionate appointment as a matter of right simply because his father had died in harness.

8. In view of the discussions made above I do not find any merit in the case. Hence, the OA is dismissed. No order as to costs.


(Sadhna Srivastava)
Member (J)