

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 491/96.

Date of Decision: 16-10-97.

Shri Atul Shivaji Shete,

Applicant.

Shri D. V. Gangal,

Advocate for
Applicant.

Versus

Union Of India & Another,

Respondent(s)

Shri R. K. Shetty,

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. M. R. Kolhatkar, Member (A).

~~XXXXXXXXXX~~
Hon'ble Shri.

- (1) To be referred to the Reporter or not? x
- (2) Whether it needs to be circulated to other Benches of the Tribunal? x

M.R. Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A).

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 491/96.

Dated this Pronounced, the 16th day of October, 1997.

CORAM : HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Atul Shivaji Shete,
166-A, Type-II,
Ordnance Factory Estate,
Varangaon, - 425 308.
(By Advocate Shri D.V. Gangal)

... Applicant

VERSUS

1. Union Of India through
The Director General,
Ordnance Factory Board,
10-A Auckland Road,
Calcutta.

2. The General Manager,
Ordnance Factory,
Varangaon - 425 308.

... Respondents.

(By Advocate Shri R. K. Shetty).

: ORDER :

¶ PER.: SHRI M. R. KOLHATKAR, MEMBER (A) ¶

In this O.A., the applicant who is the son of the deceased Government employee, who expired on 12.05.1994, has challenged the following orders of the respondents dated 17.08.1995 rejecting his prayer for compassionate appointment.

"Ordnance Factory Board, to whom your case was referred has since intimated that the case has been examined and it has been decided by the

Competent Authority that the pecuniary condition of the family does not warrant consideration of the request for compassionate grounds appointment. Hence, it is regretted that your request for compassionate ground appointment cannot be agreed to."

2. The contention of the applicant is ^{that} though the application has been rejected on the ground ^{that} that pecuniary condition of the family does not warrant consideration of the request for compassionate appointment, but the respondents have failed to correctly appreciate the serious financial condition of the applicant. The applicant's father was taking by way of salary about Rs. 3,000/- per month. He was survived by two sons, including the applicant, and his wife pre-deceased himself. The applicant is serving in a private college and his take home pay is Rs. 360/- per month and it is not sufficient to take care of the surviving family members of the deceased Government employee. According to the applicant, his elder brother is employed in the Army, who is independent. According to the applicant, his request has been rejected on oblique motives and there are several cases in which compassionate appointment ^s have been granted after payment of required amounts to the concerned officers. The applicant has also contended, that he has the right to be allotted the quarter, which ^{was} originally allotted to his father.

3. It is not necessary to go into the question relating to quarters because it is not disputed that the applicant has vacated the quarter on 03.06.1996. The only question which is required to be considered is that of Compassionate appointment.

4. The respondents have stated that the terminal benefits of the deceased Government employee - such as CGEGIS amount Rs. 34,444/-, G.P.F. - Rs. 7,682/-, Leave Encashment - Rs. 5,508/-, Gratuity - Rs. 50,840/-, have been paid equally to the two sons of the applicant. So far as the applicant's employment in the private college is concerned, whether the applicant's take home salary is Rs. 360/- is to be considered. The respondents state that they have made enquiry and have obtained a salary certificate from the concerned college for June 1996, from which it is seen that his total salary is Rs. 2,837.00 and the take home pay is Rs. 1,630/- and the ^{man} amount deducted is on account of J.D.E. Society (Rs. 1,475.00). In any case, the contention of the applicant that his take home pay is only Rs. 360/- stands refuted because the take home pay of the applicant is Rs. 1,630/-. The respondents have stated that the case was considered by the Ordnance Factory Board at Calcutta and the allegations of the applicant of oblique motives ~~played~~ of the respondents, are totally unwarranted.

The respondents have also relied on the Supreme Court decision in the case of Life Insurance Corporation Of India V/s. Mrs. Asha Ramchandra Ambekar & Another in Civil Appeal No. 1381 of 1994, in which the Hon'ble Supreme Court has held that the High Courts/Tribunals do not have powers to ~~offer~~^{direct} appointment on compassionate grounds and the jurisdiction in mandamus cannot be exercised in this fashion.

5. After considering the pleadings and arguments of the parties, I do not find that the impugned order suffers from any infirmity nor have any grounds been brought to my notice to warrant interference with the same. In my view, the O.A. has no merit and the same is, therefore, dismissed.

6. The Counsel for the respondents has urged that this is a case in which costs should be levied on the applicant because the O.A. is ~~frivolous~~^{frivolous} and unwarranted allegations have been made against the senior authorities of the respondents. I find considerable substance in the contention of the respondents, however, in the facts and circumstances of the case, I refrain from giving any orders as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).