

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated on this the 7th day of February, 2002

Coram: Hon'ble Mr. B.N. Bahadur - Member (A)

O.A. No. 234 of 2001

Atul Vasant Londhe,
68/544, Laxminagar,
Parvati, Pune.
(By Advocate Shri S.P. Saxena)

- Applicant

Versus

1. Union of India
through the Secretary,
Ministry of Defence,
DHQ, Post Office,
New Delhi.

2. The Controller General of
Defence Accounts,
West Block - V,
R.K. Puram, New Delhi.

3. The Principal Controller
of Defence Accounts,
Southern Command,
Pune - 411 001.

4. The Local Audit Office,
C.O.D., Kandivili,
Mumbai.
(By Advocate Shri R.R. Shetty)

- Respondents

O R D E R (Oral)

Per Hon'ble Mr. B.N. Bahadur, Member (A) -

The applicant in this case comes up to this Tribunal seeking the relief for consideration of compassionate appointment, an application for which had been made by him to the authorities concerned.

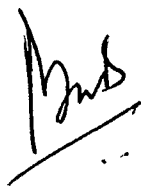
2. The facts of the case as gleaned from record, and from arguments made before us on behalf of the applicant are that the present applicant is the son of late Shri Vasant Anant Londhe, a civil employee of respondents who, unfortunately, expired while



in service, on 1.11.1997, when he was working as Senior Auditor. He left behind his widow of 45 years age, two sons aged 27 and 24 years and two daughters aged 21 and 18 years. The application/s made by the applicant has been rejected more than once by the authorities. Annexures-A-1 to A-3 have been perused, and it is seen that Annexure-A-3 is the letter dated 8.12.1997 written in response to an application dated 7.11.1997. The reason given for the rejection of the application is that the family is not in indigent circumstance to merit grant of compassionate appointment.

3. It is stated by applicant that the mother is indeed in possession of a job with a non-government organisation, as Primary Teacher, but that the requirements of the family and its circumstances are such that the amount so earned is very meagre and does not allow for even basic necessities. In fact, the argument relating to pecuniary circumstances of the applicant was stressed strongly by the learned counsel, Shri Saxena.

4. The learned counsel for the applicant took us over all facts of the case, and pointed out that there were four children and three of them were still studying. Even though the applicant's mother may have a small salary and a small pension, the requirements were heavy and, in today's inflationary situation, it was wrong to consider that the family was not in indigent circumstance. He highlighted the fact that the applicant died at a comparatively early age of 51 years, and had seven years service left. The learned counsel also made a point that



.....3/-

the widows employment has not come about after the death of the husband, but that she was already employed. Sickness and requirements of payment of loans have taken away lump sum of the benefits that have come. The learned counsel for the applicant depended upon the decision of the Principal Bench in the case of Smt. Anar Kali and another Vs. Union of India & others, 2001 (2) Administrative Total Judgments 387 to say that the lump sum amount received after the death of an employee should not be taken into consideration for assessing the pecuniary ~~circumstances~~ of a family vis-a-vis need for compassionate appointment.

5. The learned counsel for respondents Shri Shetty took us over the facts of the case as stated in the reply to make the point that applicant's mother was earning about Rs.9,500/- per month and that a lump sum of about 2.4 lakhs was provided to her after the death of the government servant. The learned counsel stated that in todays context, this kind of earning could not be stated as such as would place the applicant in the category of well to do persons.

6. The point of limitation was taken up on both sides as has been stated in the papers in the written statment of respondents and argued by learned counsel Shri Saxena on behalf of the applicant. The learned counsel Shri Saxena stated that the first date of rejection could not be taken as cause of action i.e. in 1937 since after that correspondence had been entertained by the respondents and that applicant's are informed that the matter was being still looked into. Under the circumstances, the cause of action would arise from the last rejection, as described in OA.

...4/-

B. Sub

7. I have considered all the papers in the case, and considered the arguments made by the learned counsel on both sides. In the first place it must be stated that any family does get into different circumstances after the demise of the bread winner, but the assessment whether the family is in indigent circumstances and its circumstances are to be done in the circumstances obtaining judicial review is also to be done within the constraints of the law laid down by the Hon'ble Supreme Court, on the subject of compassionate appointments especially in the matters of Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, (JT 1994(2) SC 183 and Umesh Nagpal Vs. Union of India, (1994 ATC (27) 537).

8. It had been observed by this Tribunal in the first place that some Rs.2.4 lakhs was made available as lump sum. Even if this amount is disregarded in terms of the judgment cited (supra) by learned counsel Shri Saxena, this Tribunal finds that there is indeed a monthly earning of around Rs.9,500/- from the twin sources of salary of widow and the family pension cannot be stated to be unsubstantial. While nobody can say that the cost of living has not increased, the Tribunal has also to look at the figure of income in the context of the general economic situation in the country. It cannot be said that the circumstances are so grievous as to call for judicial interveniton of the assessment made by the concerned authorities. It has been pointed out that the case of the applicant has been considered more than once and that each time the competent authority has come to the conclusion



...5/-

that this could not be called deserving case. As has been laid down by Hon'ble Supreme Court that compassionate appointment is not an entitlement and the assessment of deserving nature of the case has to be called in question in judicial review lightly.

9. Since the case has not succeeded on merits, I am not giving into the question of limitation raised by the respondent.

10. On a total consideration of the facts, it is difficult to come to the conclusion that the circumstances of the family are so indigent as to provide relief by judicial intervention. In this view of the matter, this OA fails, and is dismissed. No order as to costs.

B. N. Bahadur
(B.N. Bahadur)
Member (A)

mb
Order/Judgement despatched
to Applicant/Respondent (s)
on 18/12/22
W