

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 28 JUN 1994

APPLICATION NUMBER: 898 of 1993

APPLICANTS:

Smt. M.R. Krishnamma and
Other

RESPONDENTS:

v/s. Chief General Manager,
Telecom, Karnataka & Other:

To.

- ① Miss. Usha A. Patil, Advocate, 'Mayura Bldg',
K.V. Temple Street, Balepet, Bangalore-560053.
- ② The Chief General Manager,
Karnataka Telecom Region,
No.1, Old Madras Road,
Ellisore, Bangalore-560008
- ③ Sri. M. Yasudeva Rao, Addl. C.G.S.C.
High Court Bldg, Bangalore-560001.

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 15-06-94

Of
Received
J. B. W.

Se Shanthi
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.
28/6

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.898/93

DATED THIS DAY THE FIFTEENTH OF JUNE, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER (A)

1. M.R. Krishnamma,
Wife of late M.R. Seshachalam,
Major,
Residing at Venkataswamy,
Street, Miller Pet,
Bellary - 583101
2. Mr. M.R. Ashok,
S/o late M.R. Seshachalam,
Major,
Residing at Venkataswamy
Street, Miller Pet,
Bellary - 583 101

Applicants

(M/s Usha A. Patil - Advocate)

v.

1. The Chief General Manager,
Telecom,
Karnataka Circle,
Bangalore - 560 009
2. The Telecom District Engineer,
Bellary - 583 101

Respondents

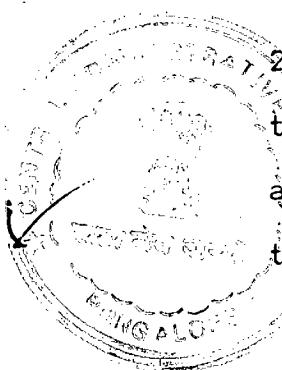
(Shri M.V. Rao - Advocate)

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

Heard.

2. We admit this application and propose
to dispose it of on its merits as follows. This
application is made by the widow and one of the
two surviving sons of one Shri M.R. Seshachalam

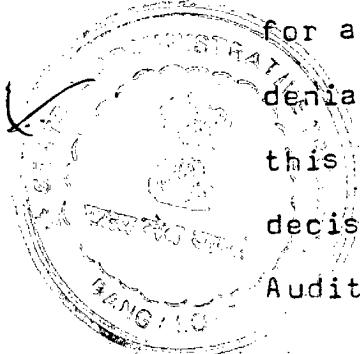


who was employed as a Line Inspector in the Telecom Department who it appears died in harness. The application says that he died on 7.5.92. Thereafter, the second applicant herein made a representation to the Department for appointment on compassionate grounds. His request for such an appointment has been turned down after due consideration by a High Power Committee of the Department vide Annexure A-1. Both the mother and son feeling aggrieved by the disinclination displayed by the Department in acceding to the second applicant's request for appointment on compassionate grounds have filed this application in which they seek a direction being given to the Department to appoint the second applicant Shri Ashok in any suitable post on compassionate grounds, having lost his father.

3. The application is opposed by the Department and the learned Standing Counsel who appears in support of the Department's case maintains that this is not one of those instances in which an appointment on compassionate grounds could be made because the family of the deceased was not in any dire circumstances or in any economic distress which required to be relieved at once by appointing somebody in place of the deceased employee. It is pointed out that one of the sons of the deceased employee is in service in the Telecom Department itself and that apart the widow has received terminal benefits amounting to Rs.80,000/- and odd besides being in receipt of a family pension of Rs.1,125/-. In those

circumstances, it is urged that it is clear the family is not in need of any further succour certainly not any enduring economic distress requiring to be relieved by appointing the second applicant Shri Ashok in the Department on compassionate grounds. The learned Standing Counsel urges this application be dismissed in toto.

4. Per contra Shri Devendran appearing for M/s Usha A. Patil, learned counsel for the applicant submits that the deceased employee having succumbed to the terminal disease of mouth cancer which involved a longish treatment stretching over a considerable period entailing considerable expenses being a fact no one disputes, it is pointed out that most of the terminal benefits received by the widow had to be applied towards discharging loans taken for the treatment of the deceased employee that in the end left her only with a small pittance. It is also urged that the elder son employed with the Telecom Department has left the family and is staying away and that he contributes nothing for the family benefit and, therefore, the position is as if there is no earning member in the family following the death of late Seshachalam. In these circumstances, it is maintained that the second applicant does qualify for appointment on compassionate grounds and that denial thereof is clearly unsustainable. In this connection, learned counsel relied on the decision of the Supreme Court in the case of Auditor General of India & Ors v. G. Ananta



Rajeswara Rao (1994) 1 SCC 192. Therein it is held:

"Appointment on compassionate ground to a son, daughter or widow to assist the family to relieve economic distress by sudden demise in harness of government employee is valid. It is not on the ground of descent simpliciter, but exceptional circumstance for the ground mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the Memorandum limited it to relieve the members of the deceased employee who died in harness from economic distress.

(Para 5)

But in other cases it cannot be a rule to take advantage of the Memorandum to appoint the persons to these posts on the ground of compassion. The provision in the DM that the appointment on compassionate grounds would not only be to a son, daughter or widow but also to a near relative was vague or undefined. All possible eventualities have been enumerated to become a rule to avoid regular recruitment. These enumerated eventualities would be breeding ground for misuse of appointments on compassionate grounds. Articles 16(3) to 16(5) provided exceptions. Further exception must be on constitutionally valid and permissible grounds. The appointment on grounds of descent clearly violates Article 16(2) of the Constitution. Therefore, in other respects the DM attracts Art. 16(2)."

5. Before we advert to any precedent on the topic we should in the first instance ascertain the facts in issue. While there is no dispute that the two applicants Smt. M.R. Kristamma and Shri M.R. Ashok are the widow and son of the deceased employee who died in harness, the question is whether the vacuum created by the death of Shri Seshachalam is to be mandatorily filled up by appointing his son Ashok, second applicant herein in his place, of course to a suitable position so that the family gets the necessary succour to maintain themselves in the absence of the sole breadwinner. An

appointment on compassionate grounds is not something to be done or not done at the discretion of the appointing authority, although undoubtedly ~~resting on~~ the exercise of its discretion. The entire field is covered by ground rules framed in that behalf. Under these rules the exercise of discretion is not without any guidance and is clearly regulated by criteria and parameters formulated for that purpose. We may, in this connection, refer to the Office Memorandum which lays down the ground rules in the matter of appointment on compassionate grounds. We find the office memorandum has been inspired by the decision of the Supreme Court in the case of Auditor General & Ors referred to above. We think it appropriate to extract the said O.M.

"No.14014/20-90-Estt.(D), Govt. of India Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) dated 9th December, 1993.

The undersigned is directed to say that the existing scheme of compassionate appointment under the Central Government is contained in this Department's O.M. No.14014/6/86-Estt.(D) dated the 30th June, 1987 read with the O.M. dated 17th Feb., 1988 22.9.92, 28.9.92 and 25.1.93 (copy enclosed). The question whether the compassionate appointment of near relations tantamounts to appointment on the basis of descent and is therefore violative of Article 16(2) of the Constitution, was recently considered by the Supreme Court. The Supreme Court in its judgment dated 8th April, 1993, in the case of Auditor General of India and others Vs. Shri G. Ananta Rajeswara Rao has held as under:

If the appointments are confined to the son/daughter or widow of the deceased government employee who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the breadwinner to relieve the economic distress of the



of the members of the family, it is unexceptionable. But in other cases, it cannot be a rule to take advantage of the memorandum to appoint the persons to these posts on the ground of compassion. Accordingly, we allow the appeal in part and hold that the appointment in para 1 of the memorandum is upheld and that appointment on compassionate grounds to a son, daughter or widow to assist the family to relieve economic distress by sudden demise in harness of Govt. employee is valid. It is not on the ground descent simplicitor, but exceptional circumstances for the ground mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the memorandum limiting to relieve the members of the deceased employee who died in harness, from economic distress. In other respects Article 16(2) clearly attracted."

The implications of the above observations/ directions of the Supreme Court on the existing scheme of compassionate appointment have been examined in consultation with the Ministry of Law (Department of Legal Affairs). It has been decided to delete the provision in the existing scheme providing for appointment on compassionate ground of near relative. In other words, no near relative will henceforth be eligible for appointment on compassionate ground and it is only a widow or son or daughter (or adopted son or adopted daughter) of a deceased Government servant who can be considered for appointment on compassionate grounds. However, if a Government servant is retired on medical grounds under Rule 38 of Central Civil Services (Pension) Rules, 1972, or corresponding provision in the Central Civil Service Regulations, before attaining the age of 55 years (57 years for Group 'D') and the Ministry/ Department is satisfied that the family is in great economic distress, his wife or son or daughter may also be considered for appointment on compassionate grounds.

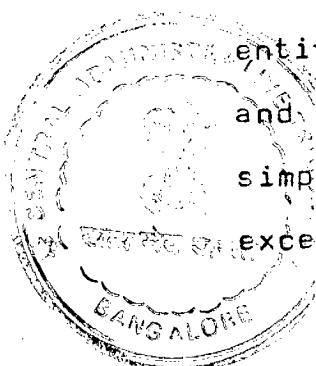
While considering a request for compassionate appointment it may be kept in view that the purpose is to relieve the family members from economic distress due to sudden demise in harness of the Government Servant as observed by the Supreme Court.

In case where any member of the family of the deceased is already an employee and is not supporting the other members of the family of the deceased, extreme caution has to be observed

in ascertaining the economic distress of the members of the family of the deceased so that the facility of appointment on compassionate ground is not circumvented and misused by making grounds that the members of the family already employed is not supporting the family.

The above decisions may please be brought to the notice of all concerned."

6. Since the exercise of discretion as termed regards making of an appointment on compassionate grounds, same has to meet satisfactorily with the requirement of the C.M. referred to above. The question is whether the admitted facts in this case, how do they in the context unfurl themselves and whether on the basis of the same it could be said the refusal of appointment on compassionate grounds was justified or not justified. As pointed out by the Supreme Court in the case of Auditor General & Ors referred to supra, appointment on compassionate grounds is made to relieve economic distress by the sudden demise in harness of a government employee is valid, but while that may be a circumstance enabling the exercise of discretion in the matter of making such an appointment, the exercise thereof is further controlled or limited by other circumstances referred to both in the C.M. and the decision of the Supreme court referred to above. Their Lordships have observed somebody does not become automatically entitled to an appointment on compassionate grounds and it is just not made on the ground of descent simpliciter but must cover or be justified by the exceptional circumstances referred to in the C.M.



It may also be noticed that the appointment on compassionate grounds is not strictly according to the rules of recruitment. It is not always that the rules of recruitment can be violated and an appointment made contrary to the rules of recruitment, for infraction of rules is not to be tolerated always. It is all very well to say that an appointment on compassionate ground must necessarily be made with a compassionate heart and no other requirement should stand in the way of dispensation of such a largess. We are afraid we cannot submit to such a view. In a more recent decision of the Supreme Court in the case of LIC v. Asha Ramadhandra Ambekar (Mrs) and another - (1994) 2 SCC 718, the Bench consisting of Hon'ble the Chief Justice of India and Hon'ble Justice Shri Mohan, their Lordships have spelt out the guidelines to be observed by courts and Tribunals in dealing with the matter making it clear that we are not empowered to confer some benediction impelled by sympathetic considerations. This is what their Lordships said:

"Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration. No doubt Shakespeare said in 'Merchant of Venice':

"The quality of mercy is not strain'd;
It droppeth, as the gentle rain
from heaven;
Upon the place beneath it is twice bless'd;
It blesseth him that gives, and him
that takes,"

These words will not apply to all situations. Yielding to instinct will tend to ignore the cold logic of law. It should be remembered that "law is the embodiment of all Wisdom". Justice according to law is a principle as old as the hills. The courts are to administer law as they find it."

At this juncture we may usefully refer to Martin Burn Ltd. v. Corporation of Calcutta. At page 535 of the Report the following observations are found:

"A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. A statute must of course be given effect to whether a Court likes the result or not."

The courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very case itself, there are regulations and instructions which we have extracted above. The court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the circular dated January 20, 1987, interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered.

We think this is not a case in which an appointment on compassionate ground could have been made for the bereaved family is really well endowed. The family had the advantage



of receiving a sizeable amount by way of terminal benefits and the widow is also in receipt of a family pension which is by no means ⁱⁿ substantial. It is said the other son is living away from the family and is not assisting the family in any way. We have not heard that the second applicant and the applicant-1 are not living together. We think the two of them have not been left high and dry and certainly not in dire circumstances. It cannot, therefore, be urged that to relieve them from economic distress and dire penury, appointing the second applicant on compassionate grounds was ~~inherent~~ ^{inherent} necessary. We may point out that the submission that considerable part of the money received as terminal benefits was applied towards discharging the loans contracted for the treatment of the deceased is without any proof. It appears to be invented for the purpose of this case. There is not a scrap of paper to establish that part of the case.

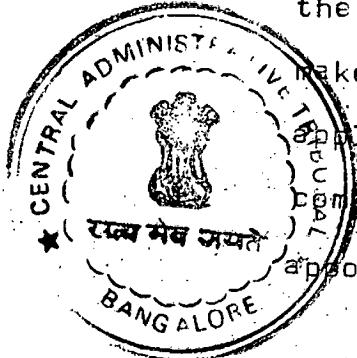
8. In this connection attention is invited to the judgment of the Tribunal in C.A.No.977/93

disposed of on 18.4.94. Therein we have said:

"Be that as it may, as the rules for compassionate stand are totally derogatory to recruitment rules, even so the rules say that if the family is found to be in totally indigent circumstance and is in dire need of assistance, compassionate appointment should be made. But otherwise there is no room for appointment on compassionate ground.

We think this is not a case in which it can be said that the family is in such dire circumstances as to call for extra succour by providing employment on compassionate grounds to a member of the family. The family having received over R.1 lakh and is also getting a family pension and the applicant himself having got R.10,000 out of the terminal benefits, he being about 25 years of age it is proper that he should find other means of livelihood than simply bickering for an appointment on compassionate grounds. The case of the applicant was considered by a High Powered Committee which turned down the request because the applicant's family was getting a pension of R.1298/- and had also received terminal benefits of more than R.1 lakh and therefore found no case for grant of an appointment to the applicant on compassionate ground. At this stage Shri Shetty for the applicant says that we should direct the respondents to reconsider the case of the applicant for compassionate appointment. That is a matter for the respondents and we cannot give any such direction and all that we do is reject the submission of Shri Shetty. However, we have no objection if the department can somehow accommodate the applicant in any post. But failure to do so will not serve as a lever for further application on this score before this Tribunal for relief. No costs."

This decision reiterates the decision of the Supreme Court in Auditor General's case and the O.M. referred to above. All these decisions make it clear that law is wholly against the applicant. Hence we hold that the Department has come to the proper conclusion in denying an appointment to applicant No.2 on compassionate grounds.



In the light of the conclusions reached above,
this application stands finally disposed of with
order as to costs.



MEMBER (A)

5d

VICE CHAIRMAN

TRUE COPY

S. Ravanas
SECTION OFFICER 28/6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

SECOND FLOOR
COMMERCIAL COMPLEX
INDIRANAGAR
BANGALORE-560038.

To

Dated: 28 JUN 1994

1. Sri.Sanjeev Malhotra,
All India Services
Law Journal, No.22,
Tagore Park, Near Model
Town, Delhi-110009.
2. M/s.Administrative Tribunal
Reporter, No.90, Bhagat Singh
Market, New Delhi-110001.
3. The Editor, Administrative
Tribunal Cases, C/o.Eastern
Book Company, No.34,Lalbagh,
Lucknow-226001.
4. ~~The Editor, Administrative
Tribunal Law Times, 5228,
Jai Vilas Mager, Kathputli Road,
Delhi-110007.~~
5. The Administrative Tribunals
Judgements, No.3857,
Sector-32-D,Chandigarh-160047.
6. M/s.Services Law
Reporter, No.108,
Sector-27-A,
Chandigarh.
7. The Chief Editor,
Weekly Law Notes,
Khanda Falsa, Jodhpur,
Rajasthan.
8. The Dy.Secretary,
Indian Law Academy,
Rajajipuram,
Lucknow-226017.
9. The Manager,
Swamys Publisher(P)
Limited, Post Box No.
2468, No.164, R.K.Mutt
Road, Raja Annamalaiapuram,
Madras-600028.
(Sandhya Mansions)

Sir,

I am directed to forward herewith a copy each of the
undermentioned Orders passed by a Bench of this Tribunal with
a request for publication in the journals.

APPLICATIONS NO.

DATE OF THE ORDER

① O.A. No. 898 of 1993 Dated. 15/5 June 1994

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of
Desked
JW
1.

Yours faithfully,
S. Shankar 58/6
for DEPUTY REGISTRAR
JUDICIAL BRANCH.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.898/93

DATED THIS DAY THE FIFTEENTH OF JUNE, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER (A)

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Applicants

(M/s Usha A. Patil - Advocate)

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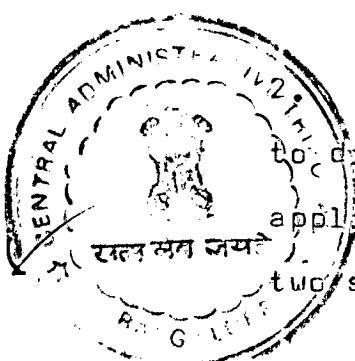
(Shri M.V. Rao - Advocate)

O R D E R

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Heard.

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to dispose it of on its merits as follows. This
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who was employed asa Line Inspector in the Telecom Department who it appears died in harness. The application says that he died on 7.5.92. Thereafter, the second applicant herein made a representation to the Department for appointment on compassionate grounds. His request for such an appcintment has been turned down after due consideration by a High Power Committee of the Department vide Annexure A-1. Both the mother and son feeling aggrieved by the disinclination displayed by the Department in acceding to the second applicant's request for appointment on compassionate grounds have filed this application in which they seek a direction being given to the Department to appoint the second applicant Shri Ashok in any suitable post on compassionate grounds, having lost his father.

3. The application is opposed by the Department and the learned Standing Counsel who appears in support cf the Department's case maintains that this is not one of those instances in which an appointment on compassionate grounds could be made because the family of the deceased was not in any dire circumstances or in any economic distress which required to be relieved at once by appointing somebody in place of the deceased employee. It is pointed out that one of the sons of the deceased employee is in service in the Telecom Department itself and that apart the widow has received terminal benefits amounting to R.80,000/- and odd besides being in receipt of a family pension of R.1,125/-. In those

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Rajeswara Rao (1994) 1 SCC 192. Therein it is held:

"Appointment on compassionate ground to a son, daughter or widow to assist the family to relieve economic distress by sudden demise in harness of government employee is valid. It is not on the ground of descent simpliciter, but exceptional circumstance for the ground mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the Memorandum limited it to relieve the members of the deceased employee who died in harness from economic distress.

(Para 5)

But in other cases it cannot be a rule to take advantage of the Memorandum to appoint the persons to these posts on the ground of compassion. The provision in the OM that the appointment on compassionate grounds would not only be to a son, daughter or widow but also to a near relative was vague or undefined. All possible eventualities have been enumerated to become a rule to avoid regular recruitment. These enumerated eventualities would be breeding ground for misuse of appointments on compassionate grounds. Articles 16(3) to 16(5) provided exceptions. Further exception must be on constitutionally valid and permissible grounds. The appointment on grounds of descent clearly violates Article 16(2) of the Constitution. Therefore, in other respects the OM attracts Art.16(2)."

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"No.14014/20-90-Estt.(D), Govt. of India Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) dated 9th December, 1993.

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The implications of the above observations/ directions of the Supreme Court on the existing scheme of compassionate appointment have been examined in consultation with the Ministry of Law (Department of Legal Affairs). It has been decided to delete the provision in the existing scheme providing for appointment on compassionate ground of near relative. In other words, no near relative will henceforth be eligible for appointment on compassionate ground and it is only a widow or son or daughter (or adopted son or adopted daughter) of a deceased Government servant who can be considered for appointment on compassionate grounds. However, if a Government servant is retired on medical grounds under Rule 38 of Central Civil Services (Pension) Rules, 1972, or corresponding provision in the Central Civil Service Regulations, before attaining the age of 55 years (57 years for Group 'D') and the Ministry/ Department is satisfied that the family is in great economic distress, his wife or son or daughter may also be considered for appointment on compassionate grounds.

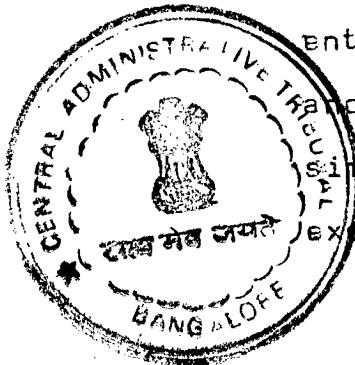
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in ascertaining the economic distress of the members of the family of the deceased so that the facility of appointment on compassionate ground is not circumvented and misused by making grounds that the members of the family already employed is not supporting the family.

The above decisions may please be brought to the notice of all concerned."

6. Since the exercise of discretion as termed regards making of an appointment on compassionate grounds, same has to meet satisfactorily with the requirement of the C.M. referred to above. The question is whether the admitted facts in this case, how do they in the context unfurl themselves and whether on the basis of the same it could be said the refusal of appointment on compassionate grounds was justified or not justified. As pointed out by the Supreme Court in the case of Auditor General & Ors referred to supra, appointment on compassionate grounds is made to relieve economic distress by the sudden demise in harness of a government employee is valid, but while that may be a circumstance enabling the exercise of discretion in the matter of making such an appointment, the exercise thereof is further controlled or limited by other circumstances referred to both in the C.M. and the decision of the Supreme court referred to above. Their Lordships have observed somebody does not become automatically entitled to an appointment on compassionate grounds and it is just not made on the ground of descent simpliciter but must cover or be justified by the exceptional circumstances referred to in the C.M.



It may also be noticed that the appointment on compassionate grounds is not strictly according to the rules of recruitment. It is not always that the rules of recruitment can be violated and an appointment made contrary to the rules of recruitment, for infraction of rules is not to be tolerated always. It is all very well to say that an appointment on compassionate ground must necessarily be made with a compassionate heart and no other requirement should stand in the way of dispensation of such a largess. We are afraid we cannot submit to such a view. In a more recent decision of the Supreme Court in the case of LIC v. Asha Ramadhandra Ambekar (Mrs) and another - (1994) 2 SCC 718, the Bench consisting of Hon'ble the Chief Justice of India and Hon'ble Justice Shri Mohan, their Lordships have spelt out the guidelines to be observed by courts and Tribunals in dealing with the matter making it clear that we are not empowered to confer some benediction impelled by sympathetic considerations. This is what their Lordships said:

"Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration. No doubt Shakespeare said in 'Merchant of Venice':

"The quality of mercy is not strain'd;
It droppeth, as the gentle rain
from heaven;
Upon the place beneath it is twice bless'd;
It blesseth him that gives, and him
that takes,"

These words will not apply to all situations. Yielding to instinct will tend to ignore the cold logic of law. It should be remembered that "law is the embodiment of all Wisdom". Justice according to law is a principle as old as the hills. The courts are to administer law as they find it."

At this juncture we may usefully refer to Martin Burn Ltd. v. Corporation of Calcutta. At page 535 of the Report the following observations are found:

"A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. A statute must of course be given effect to whether a Court likes the result or not."

The courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very case itself, there are regulations and instructions which we have extracted above. The court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the circular dated January 20, 1987, interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered."

We think this is not a case in which an appointment on compassionate ground could have been made for the bereaved family is really well endowed. The family had the advantage



of receiving a sizeable amount by way of terminal benefits and the widow is also in receipt of a family pension which is by no means substantial. It is said the other son is living away from the family and is not assisting the family in any way. We have not heard that the second applicant and the applicant-1 are not living together. We think the two of them have not been left high and dry and certainly not in dire circumstances. It cannot, therefore, be urged that to relieve them from economic distress and dire penury, appointing the second applicant on compassionate grounds was ~~unnecessary~~ ^{inherent} necessary. We may point out that the submission that considerable part of the money received as terminal benefits was applied towards discharging the loans contracted for the treatment of the deceased is without any proof. It appears to be innovated for the purpose of this case. There is not a scrap of paper to establish that part of the case.

8. In this connection attention is invited to the judgment of the Tribunal in C.A.No.977/93.

disposed of on 18.4.94. Therein we have said:

"Be that as it may, as the rules for compassionate stand are totally derogatory to recruitment rules, even so the rules say that if the family is found to be in totally indigent circumstance and is in dire need of assistance, compassionate appointment should be made. But otherwise there is no room for appointment on compassionate ground.

We think this is not a case in which it can be said that the family is in such dire circumstances as to call for extra succour by providing employment on compassionate grounds to a member of the family. The family having received over Rs.1 lakh and is also getting a family pension and the applicant himself having got Rs.10,000 out of the terminal benefits, he being about 25 years of age it is proper that he should find other means of livelihood than simply bickering for an appointment on compassionate grounds. The case of the applicant was considered by a High Powered Committee which turned down the request because the applicant's family was getting a pension of Rs.1298/- and had also received terminal benefits of more than Rs.1 lakh and therefore found no case for grant of an appointment to the applicant on compassionate ground. At this stage Shri Shetty for the applicant says that we should direct the respondents to reconsider the case of the applicant for compassionate appointment. That is a matter for the respondents and we cannot give any such direction and all that we do is reject the submission of Shri Shetty. However, we have no objection if the department can somehow accommodate the applicant in any post. But failure to do so will not serve as a lever for further application on this score before this Tribunal for relief. No costs."

This decision reiterates the decision of the

Supreme Court in Auditor General's case and

the C.M. referred to above. All these decisions

make it clear that law is wholly against the

applicant. Hence we hold that the Department has

come to the proper conclusion in denying an

appointment to applicant No.2 on compassionate grounds.



In the light of the conclusions reached above,
this application stands finally disposed of with
no order as to costs.



MEMBER (A)

5d -

VICE CHAIRMAN

TRUE COPY

S. Shrikar
SECTION OFFICER 28/6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE