

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1306/93.

Transfer Application No:

DATE OF DECISION: 17.6.1994

Shri R. N. Mayekar, Petitioner

Shri J. J. Limaye, Advocate for the Petitioners

Versus

Union Of India and Others. Respondent


Shri A. T. Bhatkar, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

O.A. 1306/93.

Shri R. N. Mayekar ... Applicant.

Versus

Union Of India and Others ... Respondents.

Coram : Hon'ble Shri B. S. Hegde, Member (J).

APPEARANCES :

1. Shri J. J. Limaye,
Counsel for the Applicant.
2. Shri A. I. Bhatkar,
Counsel for the Respondent.

JUDGEMENT :

DATE : 17/6/94

Per B. S. Hegde, Member (J)

The applicant has filed his application under Section 19 of C.A.T. challenging the orders of rejection of request for appointment as L.D. Clerk on compassionate ground of his daughter dated 28.05.1993 and 12.08.1993 respectively.

The Applicant states that he has retired on medical grounds prematurely w.e.f. 20.04.1992 leaving four years service for superannuation. The main contention of the applicant is that, he has got four dependents. Since he has prematurely retired and he was the only earning member in his family, the pension and gratuity which he gets, is not sufficient to meet his family expenditure. Accordingly, he has requested the respondent to appoint his daughter Kum. Rashmi Raman Mayekar in the post of L.D.C. On receipt of representation of the applicant, the respondent vide their letter dated 28.05.1993 considered the

the request of the applicant and did not find any adequate justification to extend benefit of compassionate appointment on the request of the applicant.

2. The respondents in their reply state that the applicant has not come out with clean hands and has suppressed the facts stating that there are altogether five members in the family but on verification it is found out that except husband, wife and daughter, none is staying with him, on verification of the Inspector's report dated 06.01.1993. The ration card of the applicant ~~is~~ also shows only two dependents, his wife and one daughter. In this connection, the respondent draws the attention to exhibit-1 wherein it is clearly envisaged that under what circumstances the compassionate appointments of sons/daughters/near relatives of deceased Government Servants or any persons can be given, which reads as follows :-

"(a) To a son or daughter or near relative of a Government Servant who dies in harness including death by suicide, leaving his family in immediate need of assistance, where there is no other earning member in the family.

(b) In exceptional cases when a Department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be

extended to a Son/daughter/near relative of a Government servant retired on medical grounds under Rule 38 of Central Civil Services (Pension) Rules 1972, or corresponding provisions in the Central Civil Service Regulation before attaining the age of 55 years."

3. In the light of the above, the Learned Counsel for the respondent submit, that the request of the applicant for compassionate appointment is not in accordance with the scheme referred to above, since he has been drawing the pension of nearly Rs. 1,100/- and other benefits have been released to him. As the applicant is not coming within four corners of the scheme, the question of considering his application for appointment on compassionate grounds does not arise and accordingly his representation was suitably disposed of.

4. In this connection, it is relevant to recall the judgement of the Supreme Court, the principle laid down in Shri Umesh Kumar Nagpal V/s. Union Of India and Others (J.T. 1994 (3) S.C. 525) wherein the court has held a job on compassionate grounds cannot be offered as a matter of course irrespective of financial condition and the compassionate appointment should be in consonance with the rules. It is not for the court to give directions to the Government to appoint a person on compassionate grounds, etc., etc.

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5. In the instant case, it is true that the applicant has been declared permanently and completely incapacitated for further services under Government and he was permitted to retire from Government Service with effect from 20.04.1992 and an invalid pension, as admissible under the rules. At the time he made a request for compassionate appointment of his daughter, aged 24 years and giving the particulars to the respondents while seeking an appointment on compassionate ground, he ought to have given full particulars of the family members and their earnings, which he did not do so in the instant case. The applicants contention is that, one of his son staying separately and he is employed, which he should have stated so in the beginning itself. In the instant case, he has been drawing the pensionary amount of Rs. 1,100/- and admittedly he has been retired on medical grounds though he has four years to for for superannuation.

6. In the circumstances of the case, I am satisfied, that the applicant has been incapacitated on account of medical grounds, thereby he has been allowed to retire, which cannot be treated as voluntary retirement. Considering the predicament of the applicant and the members of his family, especially his unmarried daughter, the balance of convenience is in his favour. Therefore, in the interest of Justice, I hereby direct the respondents to consider the request of the applicant once again, keeping in view of his incapacity on medical grounds to appoint his daughter on compassionate grounds and

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to see whether there is any possibility of absorbing her in any capacity as they deem fit. To that extent, the petition is partly allowed and accordingly the O.A. is disposed of with the above direction. No order as to costs.


(B. S. HEGDE)

MEMBER (J).