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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1323/94
Transfer Application No.

Date of Decision : 14.02.1995

Smt. Sushilaben P. Borole & Anr. Petitioner

Shri. D. V. Gangal Advocate for the
Petitioners

Versus

Union of India & Ors. Respondents

Shri. R. K. Shetty Advocate for the
respondents

C O R A M :

The Hon'ble Shri N.K.Verma, Member (A)

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?

N. K. Verma
(N. K. VERMA)
MEMBER (A)

J*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. No. 1323/94

Smt. Sushilaben P. Borole & Ors. .. Applicants

Vs.

The Union of India & Ors. .. Respondents

CORAM : Hon'ble Shri. N.K. Verma, Member (A)

APPEARANCES

1. Shri. D.V. Gangal, Counsel
for applicants
2. Shri. R.K. Shetty, Counsel
for respondents

ORAL JUDGMENT

DATED : 14/02/1995

(Per Shri. N.K.Verma, Member (A))

In this O.A, the applicant No. 1 is a widow of a Government employee, who expired on 20.09.1992 leaving behind his two unprovided sons and the widow. The widow made an application to the competent authority on 3.1.1993 for employment of her 4th son on compassionate grounds. The same was rejected by the impugned order dated 12.3.1994. The applicants therefore have come up with this O.A for quashing the impugned order and with prayer to issue a writ of mandamus directing the respondents to grant compassionate appointment to the applicant No.1's son, who is applicant No. 2 in this O.A.

2. During the course of hearing of the case, the learned counsel for the applicant, Shri.D.V.Gangal

strenuously argued that the appointment was denied to the applicant No. 2 inspite of the fact that he was having requisite qualifications for the post for which he has applied i.e. Group 'C' or Group 'D' and the family was in indigent condition, in the sense that none of the three other sons who are separately living with their own families, are supporting the family. The amount of terminal benefits granted to the widow was a petty amount of Rs.1,332 as pension and other terminal amount of D.C.R.G etc., of Rs.88,000 which has already been spent for settling the debts of the deceased employee. As on today, the widow is saddled with the maintenance problem of her two sons who are not employed and herself, within the amount of pension and the dearness relief thereof which cannot be considered to be a very comfortable amount for her living. He has also brought to ~~our~~ notice that a very large number of dependents of deceased employees have been given appointment by the respondent authorities and in some of the cases, the applications are still under consideration. However, in the instant case of the applicant, this has been rejected without giving due consideration to her application and therefore the impugned order suffers from discrimination. Shri. D.V. Gangal ^{a Cofena of} also submitted ~~skeleton~~ judgments given by the Honourable Apex Court and also by a Bench of this Tribunal, the last being the order of this Tribunal dated 1.12.1994, in which the respondents were directed to consider the case of the applicant for compassionate appointment in relaxation of age, etc.

N.H. Kulkarni

3. Rebutting the averments and arguments of the applicant, Shri.R.K.Shetty, learned counsel for the respondents has denied that the applicant is entitled to any relief in view of the fact thatshe had received a lumpsum amount of Rs.88,253 towards terminal benefits and she is getting a regular monthly pension of Rs.1,332 which is a decent amount for any indigent family to live comfortably, especially of the status that she belongs. It has also been submitted by him that in the application made by her, she had tried to hide the facts that her elder two sons were already employed and the third son was also working as a daily waged labourer and she wanted to have her 4th son appointed in relaxation of Rules on grounds of compassion. There was an attempt on the part of the applicant to misrepresent the facts. She had at no time stated the actual posts held by her sons who are gainfully employed and the details of families etc., they have to look after. However, in the course of argument, it is emerged that her two sons are working in State Government departments and even though they may not be assisting the family, they are not a burden on the family. In any case, one of the sons has been staying with the other son who is employed. So, in that circumstance, the applicant is only to look after herself and two other sons who are yet to get employment.

N.L.B.

to referee

4. Shri. R.K. Shetty has brought ~~in~~ the recent judgment of the Hon'ble Supreme Court in the *Wife's* ~~Wife~~ case of Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambekar & Anr. (JTI 1994 (2) S.C. 183), in which the Hon'ble Apex Court has laid down that the Courts & Tribunals should not give directions for appointment on compassionate ground and the jurisdiction under mandamus cannot be exercised in that fashion, it should have merely directed consideration of the claim of the respondent. He also cited several judgments of this Bench wherein it has been stated that employment on compassionate ground cannot be claimed as a matter of right. When the competent authority has duly considered the circumstances of the family of the deceased employee on the request of the widow and the same is rejected, nothing remains for a judicial review in such a matter. Shri. R.K. Shetty therefore closed his argument on this note that in the instant case the application of the widow for employment of one of her sons was duly considered by the highest body of the Ordnance Factories, Ordnance Factory Board at Calcutta, and the same was rejected by way of a speaking order, why the same should not be accepted.

5. I have given anxious consideration to the arguments of both the parties. As is well settled in law, compassionate appointments cannot be claimed as a matter of right. Compassionate appointments are allowed to mitigate the hardships to the dependents of the deceased employee who are in indigent condition due to the sudden death of the bread-earner. Government has laid down several

guidelines to render financial and other assistance to the bereaved family including the guidelines on compassionate appointment. However, each case has to be decided on merits. Mere death of an employee in harness does not entitle his dependent to a job. In the instant case, the applicant died in September, 1992. At the time of his death, admittedly the number of dependents in his family were three, which included his widow and his two sons aged 21 and 18 at that stage. His other three sons had already got employment or were staying out and his only daughter was married off. The widow got a terminal benefit of Rs.88,253 plus monthly pension of Rs.555 on which dearness relief @ 114% is payable. The rate of dearness relief keeps on increasing which would mean that the amount of pension payable will be adjusted according to the price index which keeps on fluctuating from time to time. The two sons who were aged 21 and 18 years at the time of death of the employee are now majors and they have no claims to depend on the income of the mother. It is not necessary that each and every child of the deceased employee should get employed after his death in relaxation of normal rules of recruitment. The amount of terminal benefit and the pension ~~cannot~~ appear to be ⁴⁰⁶ _M grossly inadequate for a family of the status to which the applicants belong. The amount of terminal benefits were admittedly quite substantial and the proper investment of that amount would have given her lot of financial assistance. It has not

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been satisfactorily argued that the widow spent all the 88,000 rupees in settlement of debts of her late husband. If a beneficiary of the deceased employee fritters away the terminal amount granted to her in a fashion which is not advantageous, the same cannot be rectified by invoking further compassion towards amelioration of her financial hardships and indigent condition. I respectfully quote here the observations of the Apex Court wherein it has been mentioned that

"It is true that there may be pitiable situations but on that score, the statutory provisions cannot be put aside for aught one know, there may be others cases waiting already for appointment on compassionate grounds, they may be even harder than that of the 2nd respondent."

6. While the learned counsel for the applicant has brought out a big list of cases where appointments on compassionate ground have been allowed and in some of them the matter are still under consideration, he could not pointedly argue that discrimination by giving details of appointment in totally identical situations to some others while the same is denied to this applicant.

7. In view of these there is no force in this application. The O.A therefore fails at the admission stage itself and it is dismissed, without costs.


(N.K.VERMA)
MEMBER (A)

(H)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

R.A. No. 101 of 1995
in
O.A. No. 1323 of 94.

Date of order : 11.2.1995

Smt. Sushilabai P. Berele
& Anr.

... Petitioners.

versus

Union of India & Ors. Respondents.

PER HON'BLE MR. N.K. VERMA, ADMINISTRATIVE MEMBER

This is a Review Application against the order passed by this Bench on 14.2.1995 dismissing the O.A. of the applicant for appointment in a Group 'C' or Group 'D' post on compassionate grounds in relaxation of recruitment rules. The Review Application was filed on 3.8.1995 and was required to be filed on or before 10.4.95. There has been a delay of 70 days in filing this R.A., which has been sought to be condoned.

2. The application was dismissed at the admission stage itself through a speaking and reasoned order after hearing the learned counsel for the applicant at length and in the context of the reply filed by the respondents. All the relevant considerations in the matter were taken into account and the order passed thereafter. There is no apparent error on the face of the record and nothing new has been canvassed in this R.A. The R.A. is accordingly ^{found} devoid of merits and is dismissed.