

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 168/95

199

T.A. NO:

DATE OF DECISION 11.2.2000

Shri Vinod K. Biriya Petitioner

Shri M.P.M. Pillai Advocate for the Petitioners

Versus

Union of India & 2 Others Respondent

Shri R.G. Agarwal Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. B.N. BAHADUR, MEMBER (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? No
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

B.N. BAHADUR
(B.N. BAHADUR)
MEMBER (A).

H.
mbm*

(b)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, CAMP AT NAGPUR.

ORIGINAL APPLICATION NO.: 168/95.

Dated this Friday, the 11th day of February, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Vinod Kawadooji Biriya,
Siddharth Ward,
Warora, Tq. Warora,
Dist. Chandrapur.

... Applicant.

(By Advocate Shri M.P.M. Pillai)

VERSUS

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

2. Director General, Ordnance
Factory Board, Ayudh Bhawan,
10-A, Auckland Road,
Calcutta - 1.

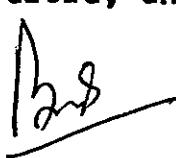
3. General Manager,
Ordnance Factory,
Chandrapur. ... Respondents.

(By Advocate Shri R. G. Agarwal).

ORDER (ORAL)

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri Vinod Kawadooji Biriya seeking the relief for a direction to the respondents to appoint the applicant on compassionate grounds. The facts are that his father, Shri Kawadooji Biriya, who was working under the Respondent No. 3, unfortunately died in harness on 02.06.1988. Applicant's mother works as Female Sweeper in Municipal Council at Warora, and hence had made the request that her son be



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given compassionate appointment. The grievance of the applicant is that this request has been rejected vide impugned order at page 22 (Docket No. 6) which is a letter of 09.11.1994, on the ground that the applicant's mother is employed.

2. In the reply statement filed by the respondents, the main grounds are that the applicant cannot be given this employment, in view of the consideration of various facts like financial condition, size of family, terminal benefits received and other factors having a bearing on pecuniary conditions. Support is sought by Respondents from the settled law in this regard in the case of Umesh Kumar Nagpal and Harminder Pal Singh, decided by the Apex Court and Jodhpur Bench of Central Administrative Tribunal respectively.

3. I have heard the Learned Counsel on both sides. The Learned Counsel for the applicant, Shri Pillai, strenuously urged the provision of the rule cited by the applicant at page 4 of the O.A. through which it is provided that the existence of an earning member in the family is no bar on the dependent being eligible provided employment on compassionate ground. The Learned Counsel for the Applicant has fairly filed a rejoinder of the applicant, indicating the details regarding financial situation of the applicant.

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4. The Learned Counsel for the Respondents based his case on the written statement, and stated that considering the retiral benefits provided and the fact of the applicant's mother being employed as described, the applicant's case does not fall within the ambit of a deserving case, as per the settled law. The Learned Counsel for the Respondents also provides a letter from Respondents showing the details of financial position of the applicant.

5. *Ab* I have perused the rejoinder as also the letters cited above (both are taken on record), to assess the current financial status of applicant's family (alongwith other facts).

6. It is seen that some amounts of gratuity, Central Government Insurance and G.P.F. totalling over Rs. 33,000/- was provided to the applicant's mother after the death of the applicant's father. She has also been provided with family pension, which according to the rejoinder is about Rs. 1,700/- per month. The rejoinder does mention that this is not enough and that Rs. 50,000/- were spent towards marriage of the elder sister, etc.

7. I have considered all the facts of the case as also arguments of the Learned Counsel on either side. We have considered the settled law on this subject.

Ab

8. It must be stated that in these difficult days it cannot be stated that applicant's family is well off. However, the question of employment on compassionate grounds, has to be viewed in the light of fact that the Scheme for provision of such employment does not create a right, but was made only to ensure that some provision is made in those cases where circumstances were difficult that there was dire need of such employment.

9. The Hon'ble Apex Court has indeed settled the law that appointment on compassionate ground is not automatic, but depends on the financial conditions of the applicant's family. True, there is no bar on provision of such employment merely because of a earning member, as argued, but, it cannot be stated in the face of the facts of the financial condition of the family that such dire need is established as will necessitate the interference by the Tribunal in the shape of a direction to the Respondents as sought. The facts of assured employment on monthly salary of the mother is specially relevant in this connection. Therefore, it cannot be stated that, a case is made out for interference by this Tribunal.

10. In the consequence, this application is hereby dismissed. There will be no order as to costs.

B. N. Bahadur
(B. N. BAHADUR)
MEMBER (A).

H/os*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, CAMP AT NAGPUR

REVIEW PETITION NO.02/2000
IN
ORIGINAL APPLICATION NO.168/95

DATED THIS Wednesday THE 28th DAY OF JUNE 2000

CORAM: Hon'ble Shri B.N. Bahadur, Member (A).

Vinod Kawadooji Biriya Applicant

Vs.

Union of India and Ors. Respondents

ORDER BY CIRCULATION

This is a Review Petition No.02/2000 filed by the Applicant, with the prayer for revision of the order made by him on 11.2.2000, in O.A. No.168/95. The prayer in the Review Petition is that the order should be reviewed in view of the grounds cited.

2. The main grounds cited by the Petitioner is that after the decision of this Tribunal on 11.2.2000, dismissing the application, the applicant came across the decision of the Principal Bench, in O.A. No.1373/94. The Petitioner prays for reconsideration of the case on the basis of the above decision of the Principal Bench. It is a clearly established legal position that a review can be entertained only on the ground of an error apparent on the face of the record or on discovery of new facts.

3. I have carefully gone through the Review Petition and find that neither ground is evident in the Petition before me. A discovery of a new judgement by the Applicant cannot be considered a ground for a matter to be taken up in a Review

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Petition. If the Applicant is aggrieved by the decision in the O.A. on the basis of merits, his remedy lies somewhere else and not in Review Petition.

4. In view of the discussions above, this Review Petition is hereby rejected. The Petitioner be informed.

B.N.Bahadur

(B.N.Bahadur)

28/6/2000

Member (A)

sj*

At 28/6/00
order/Judgment delivered
to Applicant/Respondent(s)
on 19/7/00

G
19/7/00