

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 977/97

Date of Decision : 28.11.2001

S.H.Nadgaua _____ Applicant

Shri P.A.Prabhakaran _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents

Shri V.D.Vadhavkar for
Shri M.I.Sethna _____ Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

(i) To be referred to the reporter or not ? yes
(ii) Whether it needs to be circulated to other Benches of the Tribunal ?
(iii) Library yes

peor/
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.977/97

Wednesday this the 28th day of November, 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

S.H.Nadgauda,
R/at Building No.55,
Flat No.2320, Sector-7,
C.G.S.Colony, Antop Hill,
Mumbai.

...Applicant

By Advocate Shri P.A.Prabhakaran

vs.

1. Union of India through
the Chief Commissioner of
Income Tax, Ministry of Finance,
3rd Floor, Aayakar Bhavan,
M.K.Road, Mumbai.
2. Commissioner of Income Tax,
Central-I, 10th Floor,
Old C.G.O. Bldg.,
M.K.Road, Mumbai.

...Respondents

By Advocate Shri V.D.Vadhavkar
for Shri M.I.Sethna

O R D E R (ORAL)

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act,1985 for the direction to the respondents to consider the applicant's son Shri Prabhushankar S. Nadgauda for a job in Group 'D' in the department of the respondents.

2. The applicant has also claimed the relief in para 8 (iii) regarding the direction to allot one quarter within the entitlement of his son, out of turn, as the applicant has no accommodation anywhere and the present one of Group 'C' has to be vacated at the earliest. Regarding this relief, it is suffice to state that it has a distinct cause of action which cannot be considered in this OA.

3. The applicant retired on medical grounds. The application for compassionate appointment moved by the applicant has been decided by the respondents and it is being stated that the said application was rejected on merits by the Chief CIT by his letter dated 20.3.1997 and held that the applicant's son did not merit consideration because the applicant was awarded two major penalties, i.e. reduction in rank and reduction in scale. Appeal preferred against the said punishment order was dismissed vide order dated 2.12.1998. It is further stated that in the circumstances the action of rejecting the compassionate appointment to his son on merit was in order.

4. After hearing the learned counsels for both the parties, I am of the considered opinion that the punishment awarded by the respondents to the applicant is not a ground to reject the application for compassionate appointment.

5. The respondents ought to have considered the application of the applicant in view of para 1 (b) which is as under :-

" 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 widow/son/daughter 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 Regulations before attaining the age of 55 years. In case of Group 'D' employees whose normal age of superannuation is 60 years, compassionate appointment may be considered where they are retired on medical grounds before attaining the age of 57 years."

On perusal of the same, the applicant who was holding a Group 'C' post retired before the age of 55 years is entitled to be considered for compassionate appointment in view of the provisions referred above though retired on medical grounds.

6. The criteria on which the application has been rejected being not legal one, has no bearing to decide the matter in accordance with law, as such the decision of the respondents can not be upheld.

7. In the result, OA. is allowed. The respondents are ordered to consider the application of the applicant in view of the provisions mentioned above within a period of three months from the date of receipt of a copy of this order. No order as to costs.

PLJ
(S.L.JAIN)
MEMBER (J)

mrj.

1) 23-7-2002 C.P. NO: 4512002.

Applicant by Shri P.A.
Prabhakaran.

Respondents / Contemnors by
Shri V.D. Vadhwakar.

At the request of
ld. counsel for Contemnors,
case adjourned to 24-7-2002.

S.L.Jain
M.J.

Murb
(B.N.Bahadur)
MCA

OS

2) 24-7-2002 C.P. NO: 4512002.

Applicant by Shri P.A. Prabhakaran.
ld. counsel for Respondents, Shri V.D.
Vadhwakar, places on record the order
dated 17/18-7-2002.

After hearing the ld. counsel for
Petitioner, we are of the considered opinion
that no contempt is made out for the
reason that respondents have reconsidered
the claim of the applicant for compassionate
appointment on grounds other than
enumerated in para 5 of the order.
The contention of the ld. counsel for the
Petitioner is that the Respondents ought
not to have considered the other grounds, as no
other grounds existed earlier.

It is to add
suffice to say, if the applicant has any
grievance in this respect, he is free to
agitate the matter in accordance to law &
but not by way of contempt petition.
Since no contempt is made out, the
C.P. is discharged. No costs.

OS
S.L.Jain

OS
(S.L.Jain)

Murb
(B.N.Bahadur)
MCA