

2/2/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 764/98

Date of Decision: 11/2/99

Shri Uday Gopal Sanil

Applicant.

Shri Sandeep Marne

Advocate for  
Applicant.

Versus

Union of India & 4 Ors.

Respondent(s)

Shri R.K. Shetty

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *No*
- (2) Whether it needs to be circulated to *no*  
other Benches of the Tribunal?

abp.

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

Applicant's father, Gopal.K.sanil died on 27/2/97 leaving behind a widow and two sons. The widow is stated to be step mother of the applicant. The applicant applied for compassionate appointment, but the same has been rejected by respondent Nos. 1 to 3. Respondents 4 and 5 are impleaded since he wants protection from eviction from the quarters.

3. Respondents 1 to 3 have filed reply stating that the applicant is not entitled for compassionate appointment and the request has been rightly rejected by the administration.

Respondent Nos.4 and 5 have filed reply stating that the applicant is not entitled to continue in the quarter and they have initiated action under the Public Premises Act (Eviction of Unauthorised Occupants) Act 1971 for evicting applicant before the appropriate Forum.

4. The applicant's claim for compassionate appointment has been rejected by administration on two grounds. The first ground<sup>is</sup> that his Brother is gainfully employed and other ground is the widow of the deceased has not given "No objection".

Arguments of applicant's counsel is that inspite of these two points, he is still entitled to be considered for compassionate appointment. It is also argued that respondents have not followed 1993 guidelines.

5. After hearing both the sides, I find that the applicant has not made out any case for admitting the OA or for granting any relief.

Compassionate appointment is not a mode of recruitment particularly when people are standing in queue in the open market for long time. This Compassionate appointment is a concession given to families of officials who die in harness subject to certain conditions. It is not a vested right which can be claimed. Whether in a

*dy*

herself applied for compassionate appointment. May be there is difference between the applicant and his step Mother and ~~xxx~~ the step Mother till today has not given "no objection" to the applicant to obtain the job <sup>as</sup> compassionate appointment. The view of the Competent Authority is that a member of the family ~~do~~ who gets this appointment must support the entire family. When the mother herself does not want to give "No Objection" in applicant's favour, it shows that all is not well between the applicant and step mother and personally she feels that he may not support her.


In the circumstances, the administration feels even on this ground the applicant is not entitled to compassionate appointment; this Tribunal cannot sit in appeal over the decision of the Competent Authority.

8. I am also not impressed by the argument of learned counsel for applicant about not following 1993 guidelines; as already stated that compassionate appointment claim is not a ~~vested~~ legal right in favour of the applicant. It is <sup>a</sup> concession extended by Government to help a family which is in distress due to the death of a breadwinner. If the circumstances show that the family is not in distress then the applicant **cannot** claim compassionate appointment as a vested legal right. The respondents have pointed out that the widow has received all the terminal benefits and is receiving family pension. Since the widow has received the terminal benefits, and is receiving family pension and the elder son is gainfully employed, and the widow has not given "no objection" to the applicant for compassionate appointment, in these circumstances, I do not find any illegality has been committed <sup>by the competent authority</sup> so as to call for interference by this Tribunal.

9. As far as continuing <sup>in</sup> the quarters is concerned, in ~~my~~ <sup>my</sup> opinion, ~~it is~~ <sup>it is</sup> not ~~xxx~~ necessary to be considered since

no case has been made out by the applicant for getting compassionate appointment. It is also brought to my notice that action has been taken against the applicant under PPact and law will take its own course.

10. In the result, the application is rejected at admission stage. Interim order passed in this case dated 10/9/98 and continued from time to time is hereby vacated. No order as to costs.

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

abp.