

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1078 of 1991

DATE OF JUDGMENT: 20th AUGUST 1992.

BETWEEN:

Smt. S.Rajeswari

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Applicant

AND

1. The Controller of Accounts,
Principal Accounts Office,
Ministry of Science & Technology,
(Dept. of Science & Technology),
New Delhi-110016.
2. The Comptroller & Auditor General
of India,
New Delhi-2.
3. The Secretary,
Dept. of Personnel & Training,
(representing Union of India),
New Delhi-1.

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Respondents

COUNSEL FOR THE APPLICANT: Mr. C.Suryanarayana

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl. CGSC.

CORAM:

Hon'ble Shri C.J.Roy, Member (Judl.)

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JUDGMENT OF THE SINGLE MEMBER BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

The applicant filed this application under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to consider her case sympathetically and grant her appointment on compassionate grounds in relaxation of the recruitment rules. The facts of the case are-

The applicant's husband was a junior Accountant with the 1st respondent and he completed three years service in quasi-permanency capacity as per Annexure A-1, dated 4.4.1985.

2. The applicant's husband has been left house at 9.30 AM on 19.5.1986 but he did not return home at all. An FIR No.107874, dated 21.5.1986 was registered in the Saidabad Police Station for tracing the missing person. However, by Annexure A-3, the police filed a final report No.75/86, dated 30.11.1986 stating that all efforts were made to trace him but he could not be traced and the case was closed as untraced.

3. Then, the applicant submitted a representation Annexure A-4, dated 23.11.1987 stating that she is in destitute condition and that an appointment on compassionate

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grounds may be made. Under Annexure A-5, dated 16.3.1990 she was addressed to collect the cheques in respect of leave salary and arrears of pay ~~xxx~~ of her husband Mr. Nandakishore and that ~~xxx~~ letter also was followed by a Pension Payment Order, Annexure A-6, dated 9.4.1990 together with the relief of pension of Rs.141/- commencing from 17.7.1987. Then, this amount being too inadequate for sustenance, the applicant made a further representation Annexure A-7, dated 18.5.1990 to the 1st respondent for ^{her case for} consideration of compassionate appointment.

4. After receiving two reminders, the 1st respondent informed the applicant by his letter dated 19.2.1991 Annexure- A-10 stating that her case was referred to the Department of Personnel & Training. In Annexure A-11, the Department of Personnel & Training, vide letter dated 27.2.1991 replied indicating the 3rd respondent's decision that, "her request for compassionate appointment cannot be acceded to at this end". No reasons were given in the reply dated 27.2.1991. Hence, this petition.

5. The respondents countered stating that under Section 108 of the Indian Evidence Act incorporated in the Swamy's compilation of CCS (Pension) Rules under Rule 54, a person cannot be treated as dead unless seven years elapsed. It is stated that seven years will be over in the year 1993. Therefore, disappearance of the husband

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of the applicant cannot be deemed to be there. The respondents have also filed Annexure R-2 addressed to ~~*****~~ the Department of Personnel & Training for relaxation and the decision of the Department of Personnel & Training was communicated to the applicant vide Annexure R-III, dated 27.2.1991 in which it is stated that-

"with reference to her representation dated 23.1.1990 on the above cited subject, Smt. Rajeshwari, W/o Shri Nand Kishore, Accountant is hereby informed that as per decision of Dept. of Personnel & Training, New Delhi, her request for compassionate appointment cannot be acceded to at this end."

6. I heard Mr. C.Suryanarayana, learned counsel for the applicant and Mr. N.V.Ramana, learned Additional Standing counsel for the respondents and perused the records produced by the respondents.

7. It is argued on behalf of the applicant that when the pension and other benefits were paid even though seven years are not completed from the date of missing of the husband of the applicant, why cannot a compassionate appointment be granted within that period. This argument is countered by the learned Additional Standing Counsel for the respondents stating that the rules of compassionate appointment only apply to the heirs of the Government servants ~~xxx~~ who died in harness including death by suicide,

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leaving his family in immediate need of assistance, when there is no other earning member in the family and also to the heirs of the Government servants who retired on medical grounds and superannuated and with regard to the employees whose normal age of superannuation is 60 years the compassionate appointment may be considered where they are retired on medical grounds before attaining the age of 57 years. Here none of the grounds satisfy to grant the claim of the applicant.

8. It is seen that the respondents admit in Para-2
of the letter dated 17.1.1991 that the applicant became
complete destitute with no financial assistance from
any body and they also admit^{-ted} that she has no ancestral
property left by her husband to bank upon in distress
and the small amount of family pension sanctioned to the
applicant is not sufficient for her livelihood. It is, therefore
not the case where the applicant is not in indigent circum-
stances.

9. Strict rules of evidence are not applicable to the ~~Act~~ No. C.A.T. of AT Act, 1985.

10. The 3rd respondent stated that this matter cannot be looked into at this end indicating that they have already delegated powers to the respective departments to consider the case on merits as per Rule 54 of the

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CCS (Pension) Rules. In the case of the applicant, whereabouts of her husband are not known and when strict rules need not be applied to the said Act, the contention of the respondents that the claim of the applicant for compassionate appointment cannot be acceded to, is not acceptable to me.

11. The learned counsel for the applicant also cited a decision of the Tribunal in Smt. Amarben Chandu Bai and Others Vs. Union of India (1991(2) ATJ 133) which is not applicable in this case.

12. While relying on the Judgment in AIR 1989 SC 1976 "Smt. Sushma Gosain and others Vs. Union of India and others" and the Judgment in 1991 Lab.I.C. 392 Supreme Court, "Smt. Phoolwati Vs. Union of India and others", wherein their lordships stated that even supernumerary post should be created for compassionate appointments and no delay should be made and these two judgments are followed with approval in the case of "Smt. Asha Devi Srivastava Vs. Union of India and others" (AISLJ 1992(1) CAT 38), by the Central Administrative Tribunal, New Delhi and also in view of the ~~xx~~ fact that the respondents gave pension and other benefits to the applicant and accepted that the applicant is in indigent circumstances and strict rules of evidence are not applicable to the Act, I have no hesitation to give a direction to the respondents to consider the case of the applicant for compassionate appointment.

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13. I, therefore, direct the 1st and 2nd respondents to consider the case of the applicant for an appointment on compassionate grounds within a period of four months from the date of receipt of this order.

14. The application is accordingly allowed with no order as to costs.

(C.J.ROY)
Member (Judl.)

Dated: 20th August, 1992.

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Deputy Registrar(J)

To

1. The Controller of Accounts, Principal Accounts Office,
Ministry of Science & Technology
(Dept. of Science & Technology) New Delhi-16
2. The Comptroller & Auditor General of India, New Delhi-2.
3. The Secretary, Dept. of Personnel & Training,
Union of India, New Delhi-1.
4. ^{vsn} One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Hon'ble Mr.C.J.Roy : Member(J)CAT.Hyd.
7. One spare copy.

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