

(03)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

O.A. No. 545/92

Date of Decision:

~~XXXXXX~~

Mr. M.K.Purna Chander Rao

Petitioner.

Mr. P.Venkateswarlu

Advocate for
the Petitioner(s)

Versus

Union of India and 2 others

Respondent.

Mr. N.V.Ramana

Advocate for
the Respondent
(s)

COR. As:

THE HON'BLE MR. C.J.Roy, Member (Judl.)

THE HON'BLE MR. --

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on Columns 1,2,4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

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MCJR
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.545 of 1992

DATE OF JUDGMENT: 30TH SEPTEMBER, 1992

BETWEEN:

Mr. M.K.Purna Chander Rao ..

Applicant

AND

1. Union of India, represented by
the Secretary,
Ministry of Defence,
Research & Development, Organisation,
New Delhi.

2. The Scientific Advisor to the
Ministry of Defence & Director
General of Research & Development
Organisation,
New Delhi.

3. The Director,
Defence Electronics Research Laboratory,
Ministry of Defence Research & Develop-
ment Organisation,
Hyderabad-500 005. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr.P.Venkateswarlu

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 claims in this application under Section 19 of the Administrative Tribunals Act, 1985 for a relief to quash the impugned order of the 3rd respondent vide No. DLRL/EST/0003/IDC, dated 12.1.1990 and direct the respondents to appoint the applicant under compassionate grounds in any suitable post as per his qualification in relaxation of the Recruitment Rules.

2. The brief facts of the case are as follows:-

The father of the applicant, Mr. M.B.Krishna, while working as Chargeman Grade-II in the respondents' organisation, died of heart-attack while on duty leaving behind his wife, two sons and two daughters. The first son of the deceased got married and employed during the life of the deceased official and he is living separately since marriage at a far away place, and he is not looking after the parents and the family. The first daughter of the deceased got married. The 2nd unmarried daughter of the deceased got married after the death of the deceased Govt. employee with the money paid by the Department by way of pensionary/PF benefits and also by raising private loans from the near and dear.

3. The wife of the deceased applied for employment in the respondents office in 1989 for the applicant herein

and the same was rejected vide the impugned order dated 12.1.1991 without assigning any reasons. Hence, the applicant filed the present application.

4. The contentions of the applicant were countered by the respondents stating that the family of the deceased Government servant was in receipt of pensionary benefits, Provident Fund, CGEIS amounting to Rs.80,826/- in addition to their possessing the movable/immovable assets worth Rs.82,000/- as of 1989. They are also in receipt of family pension @ Rs.900/- plus relief 71% on Rs.900/-. The respondents state that the O.A. is barred by limitation since the impugned order was passed on 12.1.1990 and the O.A. was filed by the applicant on 7.7.1992. The competent authority, after taking into consideration all the aspects, passed the impugned order. The first son of the deceased is working as Town Planning Building Overseer in the office of the Municipal Council, Rajendranagar, Ranga Reddy District, A.P. and getting gross salary of Rs.1694/- in ~~the~~ August 1989 as per the Commissioner, Municipal Council, Rajendra Nagar letter dated 3.8.1989. The residential address of the 1st son of the deceased and the residential address of the deceased Government servant is of the same locality. While admitting compassionate appointment claims by the competent authority, they keep in view the important fact that the concept of compassionate appointment is largely related to the need for immediate assistance

to the family on the passing away of the Government servant in harness. Since the family consisting of two members ie., wife of the deceased and the applicant himself has been able to manage with the family pension of Rs.1540/- per month including the relief and also with the assets held by them, for about 3 and $\frac{1}{2}$ years, the competent authority had decided that the applicant is not entitled for any compassionate appointment. Hence, the applicant has not made out a case for granting the relief, the application is liable to be dismissed.

5. Heard the learned counsel for the applicant Mr. P.Venkateswarlu and the learned Additional Standing Counsel for the Respondents, Mr. N.V.Ramana.

5. The point for consideration is whether the applicant is entitled for consideration of appointment on compassionate grounds.

6. The family of the deceased consisting of two sons and daughters who are married, are in receipt of a family pension @ Rs.900/- plus relief 71% on Rs.900/- per month, in addition to the amounts received after the death of the Government servant amounting to Rs.80,826/-. In addition they possess movable/immovable assets worth Rs.82,000/- as of 1989.

7. I have gone through the scheme of compassionate appointments. Owning of movable/immovable property is not a disqualification. Receipt of pensionary benefits etc., is also not a ground for rejecting the case of the applicant for compassionate appointment as held by the Hon'ble Members of the Central Admve. Tribunal, Calcutta Bench reported in "1989(3) SLR CAT 166 (AdhirKumar Nath Vs. Union of India and others). I would like to add that

the retirement benefits/pensionary benefits, no doubt, need not be taken into consideration while giving the compassionate appointment but it can better be applied depending upon the facts and circumstances of a given case.

8. Compassionate appointment is not a vested right but meant to provide for the immediate need of dependents who are in indigent circumstances. The indigent circumstances should be weighed depending upon the circumstances of each and every case.

9. The applicant in his application stated that the 2nd daughter of the deceased got married after the death of the deceased Government employee with the money paid by the Department by way of pensionary/Provident Fund benefits and also by raising private loans from the near relatives. The 1st son doing a job already separated from the family even during the life time of the deceased,

10. 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", their lordships even stated that supernumerary post should be created for compassionate appointments and no delay should be made and these two Judgments were 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.

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11. One of the grounds attacked by the applicant is that the impugned order dated 12.1.1990 rejecting the claim of the applicant for compassionate appointment is not a speaking order nor shows the application of mind. The order passed on 12.1.1990 is quoted below:-

"Your case for employment on compassionate grounds has been examined in depth and considered sympathetically by the higher authorities at ~~xx~~ our Headquarters. However, it is regretted to inform that it has not been found possible to accede to your request by them."

From the above, it is clear that the claim has been rejected in arbitrary manner without assining any reason.

12. In this connection, it is pertinent to cite a decision of the High Court of Allahabad reported in "I(1991) CSJ (HC) 318, Nanki Devi and another Vs. Food Corporation of India and others", wherein his lordship observed-

"In my opinion, the petitioners by means of the affidavit filed by them and other documents fully established their claims and the authorities made a favourable recommendation for giving appointment under class III or Class IV as found suitable by the authorities. However, the claim has been rejected in arbitrary manner without assigning any reason."

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contd....

Copy to:-

1. Secretary, Ministry of Defence, Research & Development, Organisation, Union of India, New Delhi.
2. The Scientific Advisor to the Ministry of Defence & Director General of Research & Development Organisation, New Delhi.
3. The Director, Defence Electronics Research Laboratory, Ministry of Defence Research & Development Organisations, Hyderabad-005.
4. One copy to Sri. P.Venkateswarlu, advocate, 5-9-22/A, Adarshnagar Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

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13. Considering the view expressed by his lordship in the above case, I am of the opinion, that the claim of the applicant cannot be rejected in a mechanical manner as has been done by means of the impugned order.

14. Summing up, the case of the applicant deserves for compassionate appointment in view of the fact that the family of the deceased is in indigent circumstances and the contentions of the respondents that the family of the deceased is getting monthly pension and other income, cannot be accepted.

15. I, therefore, direct the respondents to consider the case of the applicant for an appointment on compassionate grounds as per rules, within a period of three months from the date of receipt of a copy of this order.

16. The application is accordingly disposed of with no order as to costs.

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(C.J. ROY)
Member (Jud1.)

Dated: 20 September, 1992.

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Dy. Reg. Secy. (Jud1.)

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