

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.68/93

DATE OF JUDGEMENT:

3-9-1993

Between

S. Rama Rao

Applicant

and

1. The Comptroller and Auditor
General of India,
10, Bahadurshah Zafar Marg,
New Delhi-2.

2. Principal Accountant General(Aud.I)
Andhra Pradesh
Hyderabad

3. Secretary
Min. of Personnel, Pensions &
Public Grievances, Govt. of India
New Delhi .. Respondents

Counsel for the Applicant :: Mr.I. Dakshinamurthy

Counsel for the Respondents :: Mr G. Parameswara Rao

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT

This application is filed under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to extend the benefit of appointment of the applicant's son one Sri Vijaya Sagar, as the applicant retired on invalid pension on medical grounds as per the Government of India regulation.

2. The facts giving rise to this OA in brief, are as follows:

T - C - n - p

..2

23

3. The applicant herein was appointed as a Clerk on 22.11.1963. He adopted a child by name Thyaga Raju whose date of birth was 25.5.73 ~~as per the adoption deed~~. The applicant retired on invalid pension w.e.f. 1.6.92 on medical grounds. The applicant made a representation for appointment of his adopted son as Clerk on compassionate grounds stating that he and his wife will have to depend on him only for rest of their life, as the DCRG and the monthly pension being received by him would hardly meet his medical expenses. The request of the applicant was considered by the competent authority and the same was rejected as it was felt that the condition of the applicant's family was not in indigent circumstances warranting an appointment on compassionate grounds for his adopted son. The applicant was accordingly informed as per letter of the ^{2nd} respondent dated 4.8.92. ~~Similarly, the~~ applicant's request for appointment on compassionate grounds to his adopted son was rejected by the first respondent also. So, the applicant has filed the present OA for the relief(s) as already indicated above.

4. Counter is filed by the respondents opposing this OA.

5. In the counter filed by the respondents it is maintained that the benefit of compassionate appointment is extended to the son/daughter/near relative of Government servants retired on medical grounds under Rule 38 of CCS (Pension) Rules 1972 but only in exceptional cases and the case of the applicant seeking compassionate appointment for his adopted son, does not, however, fall in the exceptional cases, and hence, the OA is liable to be dismissed.

T. C. S. J.

26

6. We have heard Mr I. Dakshinamurthy, Counsel for the applicant and Mr Prameshwara Rao, ~~xxx~~ Standing Counsel for the respondents.

7. In the matter of compassionate appointments, near relatives of deceased ~~xxx~~ employee will have first preference over the near relative of an employee who retired on invalid pension on medical grounds. Now the question before the Tribunal is whether the family of the applicant is in such dire need of appointment on compassionate grounds without which, the family will not be able ~~to~~ to survive.

8. Admittedly, the family of the applicant consists himself, his wife and his adopted son S. Vijaya. The applicant is getting a pension of Rs. ~~1514/-~~ and relief on the full pension, ~~in all works out to Rs.1514/-~~. It is noted that the applicant owns a house also in Hyderabad. ~~wards~~ applicant had also been paid retirement benefits around Rs.40,000/-. So, the family of the applicant is limited only to three ~~members~~ and in view of the retirement benefits which the applicant ~~has~~ got and ~~also~~ the applicant having a house ~~of~~ his own at Hyderabad it is rather difficult to say that the family of the applicant is in distress and in indigent circumstances and that the family will not be able to get on unless an appointment on compassionate grounds is provided. Hence, the application is liable to be dismissed.

9. The learned counsel for the applicant vehemently contended that the retirement benefits which the applicant got, had been spent by the applicant for his medical illness

T. C. -

(33)

..4..

and that the meagre pension which the applicant is getting will not enable him to lead a decent living and hence the pension which the applicant is getting should not be taken into consideration for determining the need for compassionate appointment.

-- ~~the assets that~~ the family of an employee holds, the pensionary benefits of the employee or his legal representatives and the size of the family, etc., should be determining factors in determining the need for compassionate appointment. Admittedly, the family of the applicant is the smallest. Getting a pension of Rs. 1500/- p.m. is not a small sum by any standard. As already pointed out, the applicant has got a house ~~on~~ his own to live in. The sum of Rs. 1500/- ~~should be~~ sufficient for all the Members of the family to have a decent living. So, we are not at all satisfied in this case the applicant's family is in such a dire need warranting an appointment on compassionate grounds without which the family will not be able to survive. As a matter of fact, one expects the applicant's son to work and supplement his earnings to the family pension which the applicant is getting. With the income supplemented by the adopted son of the applicant, all the members of the family can have a better ~~and decent~~ living. The competent authority has rightly come to the conclusion that this is not a case where an appointment on compassionate ~~excessive~~ grounds can be given. The opinion of the competent authority, in the circumstances of the case, cannot be said to be arbitrary. Hence, the action of the

T - C - J

..5..

31

respondents in not providing appointment to the applicant's adopted son has got to be held as valid. For all the reasons mentioned above, we dismiss this OA leaving the parties to bear their own costs.

T - C
(T.CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 3-9 1993

mvl

By Registration

Copy to:-

1. The Comptroller and Auditor, General of India, 10 Bahadurshah Zafar Marg, New Delhi.
2. Principal Accountant General(Aud.I), Andhra Pradesh, Hyderabad.
3. Secretary, Min. of Personnel, Pensions & Public Gr. Govt. of India, New Delhi.
4. One copy to Sri. I.Dakshinamurthy, advocate, Hyd.
5. One copy to Sri. G.Parameswara Rao, SC Pof AG, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Ram/-

5/Alamp
15/11/93

BY b/sAPPROVED BY
ASRIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABADTHE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. S. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 3/9/1993

ORDER/JUDGMENT: _____

A/R.A/C.A.N.

O.A. No. _____

in 68793

T.A. No. _____

(W.P. _____)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

15/9/1993

Central Administrative Tribunal
DESPATCH
70 SEP 1993
HYDERABAD BENCH