

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

HYDERABAD

O.A.NO.1408/93

Between:

Date of Order: 26.6.1995.

Smt P.Narayamma

...Applicant

And

1. Secretary, Ministry of Defence,
Govt. of India, New Delhi.
2. The Chief of Naval Staff, NHQ,
New Delhi.
3. Head Quarters, ENC, Visakhapatnam.

COUNSEL FOR THE APPLICANT : MR.P.S.N.MURTHY

COUNSEL FOR THE RESPONDENTS : MR.N.R.DEVRAD, Sr.CGSC.

COURT:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

contd...

JUDGMENT

1. as per Hon'ble Sri R.Rangarajan, Member (Administrative) X

The applicant herein is widow of late Shri P. Atchutanarayana, who was a Senior Foreman (Amunation) in Naval Armament Inspectorate, Calcutta under the control of R-3. He expired on 3-7-1988 leaving behind him his wife, that is the applicant, six sons and two daughters. The first son of the applicant is employed and her two daughters were already married.

2. The applicant applied for compassionate ground appointment to her second son on 5th Sep., 1988. It is stated by the respondents that she received final terminal benefits of Rs.1,11,567-00 comprising of DCRG - Rs.80,850-00, General Provident Fund balance - Rs.9,113-00; and Central Govt. Employees Group Insurance to the tune of Rs.21,604-00. She was also granted family pension of Rs.954-00 p.m.

adding DA on the family pension. It is submitted by the learned Standing counsel for the respondents that she is getting a total family pension of Rs.2,000-00 inclusive of D.A. per month. It is further submitted by the learned Standing Counsel that her two daughters were already married and her first son is employed.

3. After prolonged correspondence her request for compassionate ground appointment for her second son was turned down by R-1. In the counter affidavit the detailed reasons for delay in giving her final reply has been explained. It is stated that the applicant had not given the necessary details as asked for from time to time to dispose of her case

early and hence delay had occurred. Be that as it may, the main contention of the applicant is that she is entitled for compassionate ground appointment for her second son because of the fact that her financial condition is deplorable and she is not able to sustain her family consisting of five unemployed sons. She also submits that as her final terminal benefits have been utilised for the marriage of her second daughter, she is not able to maintain her family with the meagre income she is getting by way of family pension.

4. She also relied on the judgment of the Supreme Court in the case of Auditor General of India and Ors. Vs. G.Ananta Rajeswara Rao, and the Memorandum of DOP&T bearing No.14014/20/90-Estt. (n) was issued on the basis of the Apex Court judgment referred to above that "no worthwhile enquiry has been conducted to find whether her first son is assisting her". She also relied on the judgment of the Punjab and Haryana High Court reported in 1993(5) SLR 623 - Smt.Chandra Devi and anor. Vs. The State of Haryana and another 1 to state that "compassionate appointment cannot be denied simply on the ground that the elder son of the deceased employee had got employment as that was not on compassionate basis". She also relies on the decision of the Calcutta High Court reported in 1993(2) SLR 604 - Sanjay Kumar Patta Vs. State of West Bengal 1 which also to the same effect as decided by the Punjab and Haryana High Court.

5. Aggrieved by the refusal of the authorities to provide compassionate ground appointment to her son, she has filed this application praying that the respondents be directed to provide employment assistance to the applicant's son Shri P.Krishna Mohan.

6. I have heard the arguments of the learned Standing Counsel Sri N.R.Devaraj, for respondents, and Shri K. Sudhakar Reddy, learned counsel for the applicant.

7. The main point for consideration in this OA is whether the applicant is entitled for compassionate ground appointment to her second son Sri P.Krishna Mohan, in view of the fact that she has got Rs.1,11,567-00 only as terminal benefits and she is getting only Rs.2,000/- (inclusive of DA) by way of family pension.

8. It is not in dispute that the applicant got terminal benefits of Rs.1,11,567-00. It is also not in dispute that she is getting family pension of Rs.2,000/- (total inclusive of DA per month). It is also a fact that her five sons are unemployed. Her first son though employed is not assisting the family states the applicant's counsel. It is also the case of the applicant that no enquiry has been done in terms of DOP&T Memorandum dt. 9.12.1993 to find out whether her first son is assisting her or not.

9. The final terminal benefits obtained by the applicant and the family pension of Rs.2,000/- (inclusive of DA per month) cannot be termed as meagre and hence it cannot be said that she is in indigent circumstances on the basis of that income to warrant compassionate ground appointment to her second even if her first son is not assisting her though employed. In the DOP&T circular dt. 9.12.1993, it is stated that "extreme caution has to be observed in ascertaining the economic distress of the members of the family of the deceased so that the facility of appointment on compassionate ground is not circumvented and misused by making grounds that the members of the family already employed is not supporting the family". Even if no enquiry is made to find out whether the first son

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of the applicant who is employed outside is helping her or not, the economic condition as projected by the respondents is not denied and in my opinion the economic condition of the applicant is not inadequate to maintain her family. Further the unemployed sons are all able bodied and they have to look for themselves a job so that they can maintain themselves and their mother. Hence, I come to the conclusion that no indigent conditions exist warranting grant of compassionate ground appointment to the second son of the applicant as prayed for.

10. The Apex court in 1995(1) SLJ SC 229 - Umesh Kumar Nagpal etc. vs. State of Haryana and Ors. had observed as follows:-

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post ^{post} for held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family."

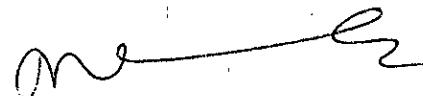
11. From the above directions of the Apex Court it is to be satisfied that for provision of compassionate ground appointment the financial position has to be taken into account. As in this case the financial position is not deplorable, provisions of compassionate ground appointment

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12. The learned counsel for the applicant referred to the decision of the Punjab and Haryana High Court and Calcutta High Court to state that the compassionate ground appointment cannot be denied as the first son of the deceased employee had got employment on his own effort. This case is not dismissed on the ground that her first son is a compassionate ground appointee. The view that has been taken in this case is that the applicant is placed in fairly good economic condition and hence rejecting her request for compassionate ground appointment to her second son is in order. In view of this, the judgments of the Punjab and Haryana High Court and Calcutta High Court have no application in this case.

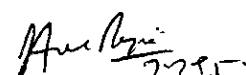
13. In view of what is stated above, I see no merits in this application and it is liable only to be dismissed. Accordingly the O.A. is dismissed. No costs.


(R. Rangarajan)

Member (Admn.)

Dated 26th day of June, 1995.
Dictated in the open court.

spr/grh.


7-7-95
DEPUTY REGISTRAR (J)

To

1. The Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Chief of Naval Staff, NHQ, New Delhi.
3. EAC, Visakhapatnam.
4. One copy to Mr. P. S. N. Murthy, Advocate, 1-142, Susarla Colony, Visakhapatnam -27.
5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

YLKR

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CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SIRI A.V. HARIDASAN: MEMBER (J)

AND

R. Rangarajan,
THE HON'BLE SHRI A.G. GORTHI: MEMBER (A)

DATED 26. 6. 95

ORDER/JUDGMENT

M.A. NO/R.P. NO./C.P. NO.

in

D.A. NO. 408/93

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions
O/A
Dismissed.

Dismissed as withdrawn
Dismissed for default

Rejected/Ordered.

No order as to costs.

YLKR

