

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
HYDERABAD

O.A.No.27 of 1999.

DATE OF DECISION: 4-11-1999

Between:

V.Pavana Rao.

...Applicant

a n d

The Chief Commissioner of Income
Tax, Ayakar Bhavan, Basheerbagh,
Hyderabad.

...Respondent

COUNSEL FOR THE APPLICANT :: Mr.P.B.Vijay Kumar

COUNSEL FOR THE RESPONDENT :: Mr.B.Narsimha Sharma

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

: O R D E R :

(PER HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN)

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OA.No.27/1999:

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1. This is a case in which the Husband is seeking compassionate appointment on the demise of his wife G.Lakshmi, who died in harness while working as Steno in the office of the Assistant Commissioner of Income Tax, Eluru on 5-2-1995, leaving behind the applicant.
2. The Respondents' main objection is that there is no provision under the Scheme to allow the benefit of compassionate appointment to the husband on the demise of his wife in harness.
3. It is contended by the respondents that the applicant's marriage with the deceased employee lasted only for a little more than 8 months before his wife died and that the ability of the applicant to maintain himself before his marriage with late Smt.Lakshmi and after her death were also taken into consideration for rejecting the claim of the applicant. The applicant made representations seeking appointment on compassionate ground. While the representations were under consideration, the applicant filed an OA before this Tribunal in which the applicant's representation was directed to be disposed of in accordance with law. The applicant initiated Contempt Proceeding No.18 of 1997 on account of non-compliance with the Order of the Tribunal, but thereafter the applicant was informed by letter No.SGR/L-7/Estt./97-98, dated 27-2-1998, that the Chief Commissioner of Income-tax

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had come to a conclusion that it was not possible to offer appointment to the applicant. It is further contended by the respondents that the DOP&T's OM in F.No.14014/20/90-Estt.(D), dated 9-12-1993 (Annexure.R-1, to the reply affidavit) makes it clear that a widow or son or daughter or adopted son or adopted daughter alone could be considered for appointment on compassionate grounds. But the applicant in the present case being the husband of the deceased official was ineligible for appointment on compassionate grounds.

4. The only ground for denying the benefit of compassionate appointment to the applicant, as seen above, is the fact that the husband is not included within the ambit of compassionate appointment. The Judgment of the Supreme Court dated 8-4-1993 in the case of AUDITOR-GENERAL OF INDIA & OTHERS Vs G.ANANTA RAJESHWARA RAO (reported in (1994) ISCC 192), has also been cited on behalf of the respondents in support of their contentions.

5. The learned Counsel Mr.Vijay Kumar pleads that this was altogether a new proposition in support of which no ruling could be cited. He took shelter of Section 13 of the General Clauses Act, in which it is provided as under:-

"Section.13

In all (Central Acts) and Regulations, unless there is anything repugnant in the subject or context,-

- 1) words importing the masculine gender shall be taken to include females; and

2) words in the singular shall include the plural, and vice versa."

6. I feel favourably inclined to accept the submission made by the Counsel Mr. Vijay Kumar for the Applicant. It is not fair, legal and proper to throw away the husband's case merely because the husband is not included within the scope and ambit of the members of the family who could be considered eligible for compassionate appointment. The raison d'etre behind compassionate appointment is to save the successors of the deceased employee from being exposed to vagaries and to provide an immediate succour to the successors on account of sudden cessation of the means of livelihood. If the husband becomes the victim of such precarious situation, I see no reason why the benefit of compassionate appointment be denied to the husband. The succour is intended to be provided not to any individual but to the family of the deceased. In that view of the matter even if the husband is not specifically included in the definition, he is the person most closely concerned as compared to other family members shown as eligible within the compass of compassionate appointment.

True, of course, the grounds of deprivation of the only means of livelihood, immediate succour and saving the family from vagrancy, are required to be satisfied, but it would therefore not be proper to throw away the husband's case merely because the husband is not specifically included within the

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scope and ambit of the family of the person who dies in harness. As stated in Section 13 of the General Clauses Act, words importing the masculine gender shall be taken to include females, though may not directly apply in the context of compassionate appointment, the vagarancy factor overrides other impediments. Since this proposition may open a new horizon in matters of compassionate appointment, it is necessary to remand the matter to the Respondent to re-consider the issue keeping in view the observations made and views expressed in this Judgment.

7. This OA is therefore disposed of with a direction to the respondent to re-consider and decide afresh the eligibility of the husband for compassionate appointment on the basis of the observations made in Paragraph 6 above in this Judgment. This exercise shall be completed within two months from the date of receipt of a copy of this Order.

8. The OA is disposed of accordingly. No costs.

DSN
(D.H.NASIR)
VICE CHAIRMAN

DATED: this the 4th day of November, 1999

DSN

Amj
H-1198

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

~~1ST AND 2ND COURT~~

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THE HON'BLE MR. R. RANGARAJAN :
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DATE OF ORDER: 4/11/99

MA/RA/CP. NO.

in

OA. NO: 27/99

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