

J A I P U R.

O.A. No. 65/94

Date of Decision: 26.5.94

SURENDRA VACHHANI

: Applicant.

VERSUS

UNION OF INDIA & OPS

: Respondents.

Mr. A.L. Verma

: Counsel for the applicant.

Mr. V.S. Gurjar

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

Heard the learned counsel for the applicant.

2. The applicant's father expired on 26.12.91 and application for appointment on compassionate grounds was submitted on 5.5.1992 by the applicant. The applicant's submission is that he is having two brothers and two sisters and his brothers are in employment and sisters are married.

3. The applicant's contention is that the Government divided the amount of Gratuity, GPF, leave pay etc. into five parts wrongly and the payment against the loan of the deceased has been deducted. This goes to show that the applicant has to maintain himself and none else. On the contrary, it goes to show that there is a dispute amongst the brothers and sisters about the inheritance also.

4. The applicant submits that the grounds for rejecting the request for appointment on compassionate grounds, have been taken into consideration as mentioned in Annexure A-1. In Annexure A-1, it has been mentioned that out of three sons, two sons are already employed in private firms earning Rs. 1200/- and Rs. 900/- per month respectively. It has also been mentioned that the family is getting Rs. 1723/- as family pension.

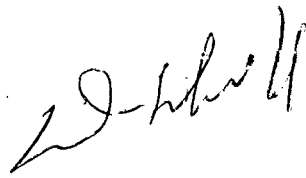
5. It was also submitted by the learned counsel for the applicant that the family pension is not admissible after 21.10.94 and might have been stopped. Whatever are the circumstances, a person has no right to get a compassionate appointment after the Judgment of the Hon'ble Supreme Court

in the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambekar & Anr. (JT 1994(2)SC 183) and Umesh Kumar Nagpal Vs. State of Haryana & Ors (JT 1994(3) SC 525). The case of the applicant does not survive. Their Lordships held (Nagpal's case supra) that mere death of an employee in harness does not entitle his dependents to a job. Financial condition of the family must be taken into account. A job on compassionate ground cannot be offered as a matter of course irrespective of financial condition or in posts above Class III and IV. Their Lordships have also made remarks about the authorities and the Government which read as under:-

"Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Classes III and IV. This is legally impermissible."

This, it is a case in which the applicant is not entitled to get a compassionate employment and no employment can be given. The applicant is a Commerce Graduate as mentioned in the application and he should try and compete for the employment. It cannot be given as a routine appointment. Number of considerations take place and only in very exceptional circumstances, it can be given, otherwise, it may violate the provisions of Articles 14 and 16 of the Constitution of India. In the facts and circumstances of the case, I do not find it a fit case for directing the respondents to consider the case of the applicant afresh.

6. The O.A. is disposed of accordingly, with no order as to costs.


(D.L. MEHTA)
Vice-Chairman