

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A. No. 471/94

Dt. of order: 13.12.1994

Smt. Raj Kumari Shobhawat : Applicant

Vs.

Union of India & Ors. : Respondents

Mr. K. L. Thawani : Counsel for applicant

Mr. V. S. Gurjar : Counsel for respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judl.)

Hon'ble Mr. O. P. Sharma, Member (Adm.)

PER HON'BLE MR. O. P. SHARMA, MEMBER (ADM.).

In this application under Sec. 19 of the Administrative Tribunals Act, 1985, Smt. Raj Kumari Shobhawat, has sought a declaration that the non-acceptance of the request of the applicant for appointment of her son on compassionate ground in a Group-C post in relaxation of the recruitment rules in place of her deceased husband is arbitrary, violative of the principles of natural justice and Articles 14 and 16 of the Constitution. She has sought a direction to the respondents to appoint her son Shri Manoj Kumar in a Group-C post according to his qualification on compassionate grounds in relaxation of recruitment rules.

2. The case of the applicant is that her husband Shri Madan Gopal Shobhawat while in service as Ex-Sub Postmaster Pupangarh (Ajmer) died on 19.11.1977 at the age of about 30 years. The applicant had two sons aged about 3 years and 3 months respectively. She at present draws Family Pension of Rs. 375/- plus D.A. A sum of Rs. 15,000/- were sanctioned to her as DCRG in 1977. She had no resources to maintain herself at the time of her husband's death. She started running a Fair Price Pation Shop from which she gets income of about Rs. 300/- per month. She was given to understand that after her son becomes major and passing High School Examinations, he would be appointed in the Department as Clerk in place of his deceased father. She requested the Department in 1992, when Shri Manoj Kumar became major, and passed High School, for appointment in the Department. Her

application was rejected on the ground that it was 15 years old. There was no response to her request for reconsideration by the Chief Post Master General, Rajasthan Circle.

3. The respondents in the reply have stated that the application is barred by limitation. The applicant receives Family Pension and is also running a Fair Price Ration Shop which shows that the applicant is not in any immediate need of assistance. Further, according to them, since 15 years had passed ^{since} the death of her husband, there is no case of appointment of her son on compassionate grounds.

4. During the arguments, the learned counsel for the applicant drew our attention to a judgment of the Tribunal in Smt. Angoori Devi & Anr. Vs. Union of India & Ors., 1991(1)ATJ 336. In this judgment according to the learned counsel for the applicant, the ground that the family somehow managed to live during all these 9 years when no compassionate appointment was given was no ground to deny the benefit to the applicant. Further, the delay in not seeking the compassionate appointment during the aforesaid period of 9 years had been satisfactorily explained. The department was accordingly directed to consider the case of the applicant for appointment on compassionate ground as the grounds taken by the respondents were not justified. He also drew our attention to the relaxation provided for appointments on compassionate ground as laid down in para 6 of the Govt. of India, Deptt. of Personnel & Training, O.M. No.14014/6/86-Ett.(D) dated 30.6.87. Regarding relaxation of age limit, it is stated that it may be relaxed where-ever necessary. It has further been stated in the Note below this para that where there is a ward below 18 years of age and he alone is available for employment, he should apply as soon as he attained the age of 18 years.

5. The learned counsel for the respondents drew our attention to the judgment of the Hon'ble Supreme Court in the case of Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambekar & Anr. J.T 1994(2) SC 183/which reference has been made in the reply of the respondents and added that in terms of this judgment

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no compassionate appointment can be given in view of the aforesaid decision of the Hon'ble Supreme Court.

6. We have heard the learned counsel for the parties and have gone through the records. It seems that for the first time the applicant had approached to the department on 12.10.93 (Annex.A5) for appointment of her son on compassionate ground. It is true that earlier the son was not eligible for appointment, on the ground that he had not attained majority. But the applicant herself could have sought appointment on compassionate ground if she was in economic distress and was in need of immediate financial assistance. At present, she is drawing Family Pension and is also running a Fair Price Ration Shop from which she is deriving some income. The judgment of the Tribunal cited by the learned counsel for the applicant was delivered on its own facts. In the facts and circumstances of the present case, we do not see any ground for directing the Department to reconsider the applicant's request for appointment of her son on compassionate ground. The application is dismissed with no order as to costs.

(O.P. Sharma)
Member (A).

GK
(Gopal Krishna)
Member (J).