

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

(12)
Dated: 19.7.96

OA No.588/94

Prabhu Narain Gurjar .. Applicant

Versus

Union of India and others .. Respondents

Mr. Prahlad Singh, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judl. Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judl. Member

The applicant Shri Prabhu Narain Gurjar has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek appointment on compassionate ground in the respondent department of Posts, besides to quash and set-aside the letter dated 20-10-94 of the respondents rejecting his claim.

2. The facts relevant to this application are that the applicant's father Shri Damodar Lal Gurjar was working as Jamadar in the office of the Head Record Officer (H.R.O.), R.M.S., Jaipur Division. He died on 16-4-90 while in service. Immediately thereafter, the applicant's mother Smt. Kesar Devi, the widow of the deceased employee made an application on 2-5-90 for appointment of the applicant in the respondent department on compassionate ground. The respondents sought various informations which were duly supplied by the applicant. However, vide letter dated 20-10-94, his request to seek appointment on compassionate ground was rejected. The applicant

feeling aggrieved by this impugned order Ann. A1 approached this Tribunal to claim the aforesaid relief.

3. The respondents have opposed the application by filing a written reply to which the applicant did not file any rejoinder. However, in pursuance of the directions given by this Tribunal on 9-1-96, the respondents have filed an additional reply on behalf of the respondents.

4. I have heard the learned counsel for the applicant and also the respondents and have examined the record in great detail.

5. The only point for consideration in this application is whether the deceased employee's family is in such an indigent circumstances which make imperative for the respondents to extend him appointment on compassionate ground. It has been argued by the learned counsel for the applicant that at the time of death of his father the family consisted of 6 members i.e. Prabhu Narayan (applicant); Gopal Lal; Kailash Chandra (all sons) Sunta Devi; Sita Devi (daughters) and the widow Smt. Kesar Devi. It has also been urged that although besides the above family members, there are also two adult sons of the deceased employee, ^{they} ~~but~~ have been living separately since the ~~life~~ ^{time} of his deceased father. It has, therefore been urged that the applicant being the eldest supporting member of the family, he should be given compassionate appointment after the death of his deceased father while in service. The learned counsel for the applicant has drawn attention of the Tribunal on an initial application made by Smt. Kesar Devi, mother of the applicant

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on 2-5-90 (Ann.A3), affidavits at Ann.A6 and A7 respectively by the applicant and his mother, as well as other documents to make out ~~to make out~~ that the financial condition of the family is not good and that the applicant should be accorded the relief claimed in this application.

6. On the contrary, the respondents have vehemently opposed this application and argued that since two elder sons of the deceased employee were already in government employment and the family is also in possession of agricultural land and has also been in receipt of retiral benefits of the deceased employee, the family cannot be said to be in an indigent circumstances and that there has been no illegality or infirmity in the rejection of the claim by the respondents to seek compassionate appointment on account of death of his deceased father Shri Damodar Lal Gurjar. In support of his arguments the learned counsel for the respondents has relied mainly on two decisions of Hon'ble the Supreme Court: firstly on Umesh Kumar Nagpal Vs. State of Haryana, (1994) 24 ATC 537 and secondly on Life Insurance Corp. of India Vs. Asha Ramchandra Ambedkar and another, JT 1994 (2) SC 183.

7. I have given anxious thought to the able arguments addressed on behalf of both the parties. It appears that the applicant is not approaching the Tribunal with clean hands. This is made out from the documents filed by the applicant himself. The contention of the learned counsel for the applicant that the family consisted of only 6 members is belied by the certificate issued by the Tehsildar on 4-6-91 (Ann.A10), wherein it has been indicated

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that in the family of the deceased Damodar Lal, there are total 8 persons. From a perusal of this document, it is also made out that in village Ganeshpura, Tehsil Chaksu there is 22 Bighas of land and in the share of each of 8 members: 1 Bigha and 7 Biswas land falls. It is on this basis that it has been urged that the land being Barani and there is negligible income of Rs. 600/- per year of the family from it. This version of the applicant is belied by the particulars made available vide Ann.R2 on requisition by the respondents while examining his claim. In para third, clause (e), this applicant has mentioned that agricultural land is about 14 Bighas and annual income is Rs. 7000/- per annum. Whereas in the certificate issued by the Tehsildar on 4-6-91, the area of land has been indicated as 22 Bighas and similarly in another communication sent to the ~~respondent~~ department on 21-12-93 (Ann.20) the proportion of share to each of the family members shown is 1 Bigha and 7 Biswas. It is thus apparent that the applicant has not disclosed the true financial state of his family inasmuch as the land in possession of all members of the family has been declared less than that certified by the Tehsildar. The applicant has also failed to satisfy that his two brothers who are admitted to be in government service by the applicant himself have sought separation from the other family members. In any ~~view~~ of the matter, it cannot be said that the two elder sons of the deceased employee have no obligation, whatsoever, to support the other ~~members~~ of the family, they being already in government service. Moreover,

it is an admitted position that the widow of the deceased employee received a family pension of Rs. 498/- from 17-4-90 to 16-4-91 and thereafter Rs. 375/- per month besides dearness relief. The family has also received Rs. 28358/- on account of D.C.R. Gratuity; Rs. 6469/- on account of G.P.F. balance; Rs. 16,163/- as C.G.E. Insurance amount; Rs. 1579/- as Leave Encashment and Rs. 2000/- as Welfare assets. From the particulars submitted by the applicant in Ann.R2, it is also made out that two of his elder brothers i.e. Mohan Lal Gurjar and Om Prakash are also employed. This fact is also corroborated by the respondents in the additional reply wherein it has been asserted that both the elder brothers (elder sons of the deceased employee) are employed in the R.M.S. Moreover, from the report submitted by the Inspector Shri Birbal Meena (Ann.R1) it is also made out that the two elder sons are in government employment, who have also been promoted and on the date of report ^{were} as Sorting Assistants and were undergoing training at H.R.O., Jaipur.

8. It appears that in the ~~case~~ background of the above factual financial position of the family of the deceased employee Shri Damodar Lal, the respondent department after ascertaining it, has come to the conclusion that the deceased employee's family does not fall under the category of 'indigent circumstances' and hence rejected the claim of the applicant vide their impugned order dated 20-10-94 (Ann.A1). I do not find any illegality or infirmity in the impugned order dated 20-10-94 by which the claim of the applicant has been rejected by the respondent department. Moreover, it has now been ^{settled} by the Hon'ble Supreme Court in the case of Umesh Kumar

Nagpal (supra) that:-

"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 for post 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. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."

The above principle applies with full force in the instant case also.

9. Further from a perusal of Office Memorandum dated 30-6-1987 issued by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, it has been made specifically clear that "compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness". In the instant case, the applicant has miserably failed to exhibit that the family members of the deceased employee were in indigent circumstances and that they need immediate assistance. The family has been in possession of landed property and the two sons of the deceased employee are already in government employment, it cannot be said that the

family was at any time in financial distress immediately after the death of the deceased employee. Further, the observations of the Hon'ble Supreme Court in the case of Life ^{of} Insurance Corporation/India (supra) also strengthened the arguments of the respondents wherein it has been laid down that the Courts and the Tribunals cannot direct compassionate appointments merely on the ground of sympathy as-
regarding the instructions/law on this subject. In the instant case also, the instructions issued by the Government of India vide their Office Memorandum No. 14014/6/86-Estt (D) dated 30-6-87 do not provide that in every case a son of a deceased employee should be given compassionate appointment dis-regarding the facts that there are other sons of the deceased employee in government service.

10. Accordingly, in view of what has been said and discussed above, it cannot be said that there has been any illegality or infirmity in the impugned order dated 20-10-94 (Ann.A1) issued by the respondents. The issue framed in this OA is answered negative. Consequently, the OA being without any merit is dismissed with no orders as to costs.



(Ratan Prakash)
Judicial Member