

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 22/1/2001

OA No.108/1999

Kamal Kumar Kumawat s/o late Shri M.L.Kumawat, r/o 460 Mishra
Rajaji Ka Rasta, Indira Bazar, Ajmeri Gate, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. Registrar General, Ministry of Home Affairs, 2A Mansingh
Road, Kota House Annexe, near Taj Hotel, New Delhi.

.. Respondents

Applicant present in person

Mr. Hemant Gupta, proxy counsel to Mr. M.Rafiq, counsel for the
respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

Order

Per Hon'ble Mr. S.K.Agarwal, Judicial Member

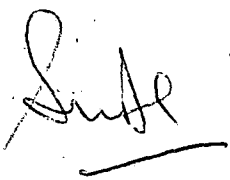
In this Original Application, filed under Section 19 of the
Administrative Tribunals Act, 1985, applicant makes a prayer to
direct the respondents to consider the candidature of the applicant
for appointment on compassionate grounds on priority basis and
grant him compassionate appointment.

2. In brief, the facts of the case, as stated by the applicant,
are that applicant's father, Shri Madan Lal Kumawat, while working
on the post of Research Officer in Map Division of Census
Department died on 21.8.1994 leaving behind him his mother, grand
mother and the applicant. It is stated that applicant's father was

the sole bread earner and brother of the applicant was living separately even prior to the death of the deceased employee.

Therefore, mother of the applicant made a representation for giving appointment to her son on compassionate grounds, but ultimately the respondent Department rejected the claim of the applicant on the ground that applicant is in possession of sufficient property. It is stated that applicant is in indigent circumstances and have no regular means of livelihood either from service profession or business. Therefore, denial of compassionate appointment to the applicant is not only illegal but also arbitrary and in violation of Articles 14 and 16 of the Constitution of India. Therefore, the applicant filed this OA for the relief as above.

3. Reply was filed. In the reply it is stated that applicant submitted an application on 10.2.1995 seeking appointment on compassionate ground but according to rule compassionate appointment is to be given to a dependant of a government servant who dies in harness leaving his family in an immediate need of assistance when there is no other earning members in family. It is stated that in this case family of the deceased government servant was not found in indigent circumstances as terminal benefits to the tune of Rs. 4,08,231/- were paid in addition to a sum of Rs. 3626/- per month as family pension. Moreover, Shri Ashok Kumar, eldest son of the deceased government servant was already employed. Therefore, case of the applicant was not found fit for considering appointment on compassionate grounds and his application was rejected. It is also stated that the case of the applicant is not similar to that of Shri Mohar Pal Meena and H.C.Dabodia as terminal benefits paid to the family of Shri Kumawat were higher than Shri Mohar Pal Meena and H.C.Dabodia and also the eldest son of the decease Shri Ashok Kumar was already employed.

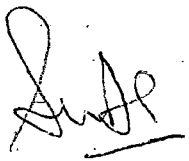


4. Rejoinder has also been filed reiterating the facts stated in the OA.

5. Heard the applicant in person and the learned counsel for the respondents and also perused the whole record.

6. Admittedly, the family of the deceased was paid retiral benefits to the tune of Rs. 4,08,231/- and widow of the deceased is getting family pension of Rs. 3626/- per month. It is also not disputed that eldest son of the deceased Shri Ashok Kumar is already employed, although according to the applicant he is residing separate from his father in his life time but the circumstances which are existent in the instant case are establishing this fact that condition of the family of the deceased is not indigent and according to our considered view there is no immediate need of assistance.

7. Hon'ble the Supreme Court in Jagdish Pradas v. State of Bihar, (1996) 1 SCC 301 has observed that the very object of appointment of dependent of a deceased employee who died in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of earning member of the family. This object is no longer can be achieved by giving appointment to the applicant at this stage. The Hon'ble Supreme Court in Director of Education and anr. v. Union of India and ors., (1998) 5 SCC 192 held that the object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread earner which has left the family in pecury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that the deceased was a member of the family

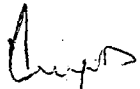


having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependents of the deceased who may be eligible for such appointment.

8. In Om Pal v. Union of India, 2000 (5) SLR 508, the Punjab and Haryana High Court held that if widow is getting regular pension having already received full terminal benefits, claim of the petitioner to compassionate appointment is not justified.

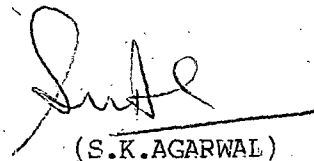
9. In the instant case the family of the deceased employee received retiral benefit to the tune of Rs. 4,08,231/- and the widow of the deceased is also getting family pension. It is also a fact that eldest son of the deceased Shri Ashok Kumar is already employed. Therefore, in the facts and circumstances of this case and the settled legal position, we are of the considered opinion that applicant is not entitled to the relief sought for.

10. We, therefore, dismiss this Original Application with no order as to costs.



(A.P.NAGRATH)

Adm. Member



(S.K.AGARWAL)

Judl. Member