

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 19/12/2001

OA No.236/2001

Ajay Singh s/o late Shri Kahari Singh r/o Namak Ka Katra,  
opposite Surgit School, Bharatpur.

..Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. Chief Engineer, Military Engineering Services, Southern Command, Engineers Branch, Pune.
3. Chief Engineer, M.E.S., Jaipur Zone, Power House Road, Bani Park, Jaipur.

.. Respondents

Mr.R.D.Tripathi, counsel for the applicant

Mr. Arun Chaturvedi, counsel for the respondents

CORAM:

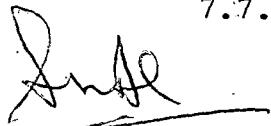
Hon'ble Mr. S.K.Agarwal, Judicial Member

ORDER

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

In this Original Application under Section 19 of the Administrative Tribunals Act, applicant makes a prayer to quash and set-aside the letter dated 8.11.2000 and to direct the respondents to appoint the applicant on the post of Chowkidar after relaxing his age limit.

2. In brief, facts of the case, as stated by the applicant, are that father of the applicant Shri Kahari Singh working as UDC in Garrison Engineer, Alwar died on 7.7.96 leaving behind his widow, three sons and two



daughters. It is stated that after the death of his father applicant, who was eligible for appointment on the post of LDC, submitted his application on 27.8.96 for appointment as LDC on compassionate grounds. The applicant was asked to fulfil certain formalities. Thereafter due to want of vacancies, he could not be given appointment and was asked to give option for appointment on the post of Mazdoor. The applicant gave his option, but again due to want of vacancy applicant was asked to change over his option for the post of Chowkidar and accordingly applicant gave his option for the post of Chowkidar. It is stated that case of the applicant was referred to headquarters for relaxation of age limit, but the headquarter vide impugned letter dated 8.11.2000 rejected the case of the applicant on the ground as mentioned in the impugned letter dated 8.11.2000. It is stated that employment of any member of the family of the deceased does not debar the other depending member of the deceased from appointment on compassionate grounds. Therefore, refusal of the applicant for appointment on compassionate ground is arbitrary, unjust and against the settled principles of law. Therefore, applicant filed this OA for the reliefs as above.

3. Reply was filed. It is stated that widow of the deceased was paid retiral benefit after the death of Shri Kahari Singh, UDC working in Garrison Engineer as under:-

D.C.R.G. Rs. 1,83,900

Insurance 37,184

G.P.F. 1,09,685

Leave Encashment 85,000

Rs. 4,15,769

*Sinha*

It is also stated that widow is regularly getting family pension of Rs. 1650/- p.m. plus dearness relief as per central Government rates. It is stated that the elder son of the deceased employee is already in service and he is drawing about Rs. 7000 p.m., as such no indigent circumstances exist in the family of the deceased. In the reply it has not been denied that applicant was asked for option of another post due to want of vacancy and applicant submitted his option for the post of Chowkidar/Mazdoor in pursuance thereof. It is also not denied that the case of the applicant was sent to the competent authority for relaxation of his age limit and the concerned authority has rejected the claim of the applicant vide impugned letter dated 8.11.2000.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant has argued that the applicant was found eligible for appointment on compassionate grounds three times but when his case was forwarded for relaxation of his age limit to the competent authority, the competent authority has rejected the claim of the applicant in toto on the ground that elder son of the deceased is already employed and family does not present a picture of great indigence. The respondent department did not take into consideration the fact that elder son already employed was leaving separate from the life time of his father and the widow has a responsibility to maintain his two sons and after marriage expenses of her two daughters. The competent authority

while rejecting the claim of the applicant did not appreciate the fact that earlier three times the applicant was called for interview/appointment on the post of Mazdoor/Chowkidar but due to non-availability of vacancy he was asked to change over his option for another post and applicant has submitted his option accordingly. But in the meantime, he has become over-age and his case was forwarded to the competent authority for relaxation of his age. The competent authority instead of relaxing his age, rejected the claim of the applicant on the ground as mentioned in the letter dated 8.11.2000. The law on the subject has been dealt with by the Apex Court of the country in *catena* of judgments.

6. In Umesh Kumar Nagpal v. State of Haryana (1994) 4 SCC 138, a Bench of two Judges has pointed out that the whole object of granting compassionate appointment is 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 held by the deceased.

7. In Jagdish Prasad v. State of Bihar, (1996) 1 SCC 301, Hon'ble Supreme Court has observed that the very object of appointment of a dependent of the deceased employee who died in harness is to relieve unexpected immediate hardship and distress caused to the family.

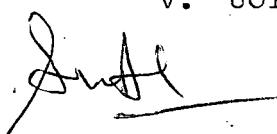
8. In Director of Education and Anr. v. UOI and ors., (1998) 5 SCC 192, the Hon'ble Supreme Court held that the object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting



due to death of the bread winner 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 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.

9. In Haryana State Electricity Board and Anr. v. Hakim Singh, JT 1997 (8) SC 332, Hon'ble Supreme Court has pointed out that the rule of appointment in public services is that it should be on merits and through open invitation. It is the normal route through which one can get into public employment. However, as every rule can have exceptions, there are a few exceptions to the said rule also which have been evolved to meet certain contingencies. As per one such exception relief is provided to the bereaved family of a deceased employee by accommodating one of his dependents in a vacancy. The object is to give succour to the family which has been suddenly pluded into penury due to the untimely death of its sole bread winner. It has been pointed out that such relief should not be taken as opening an alternative mode of recruitment to public employment.

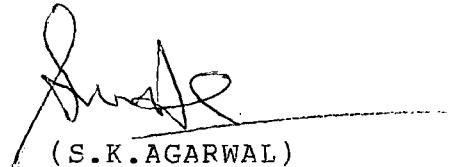
10. In the instant case, it is true that widow was given retiral benefit to the tune of Rs.4,15,769 but that itself does not become a ground for rejecting the claim of the applicant as it has been held in Balbir Kaur and anr. v. UOI, AIR 2000 SC 1596. The competent authority was



required to examine all the circumstances around the applicant so as to reach to the conclusion whether family of the deceased requires any assistance for its survival as the widow has to maintain his two children including their education expenses and after marriage expenses of the married daughters and the elder son who is employed is already leaving separate from his mother, who is not providing any help to the widow or the family members of the deceased. Therefore, it can be very well said that indigent circumstances still exist in the family. Looking to the facts and circumstances of the case and the settled legal position, I am of the opinion that indigent circumstances still exist in the family and applicant is entitled to be considered for appointment on compassionate grounds.

11. I, therefore, allow this OA and quash the impugned letter dated 8.11.2000. The respondents are directed to consider the candidature of the applicant for appointment on compassionate grounds within three months from the date of receipt of a copy of this order. If age comes in the way, the age relaxation shall be done by the competent authority.

12. No order as to costs.



(S.K. AGARWAL)

Judl. Member