

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.317/2001

Date of order: 8/1/2002

Krisna Kumar Sharma, S/o late Shri Ramjilal Sharma
C/o Sh.Madanlal Sharma, Nazir Mandi Atal Band,
Bharatpur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini.of Defence,
CGO Complex, New Delhi.
2. Chief Engineer, Jaipur Zone, MES, Power House Road,
Banipark, Jaipur.

...Respondents.

Mr.Pawan Kumar Sharma : Counsel for applicant
Mr. Mr.Arun Chaturvedi : Counsel for respondents.

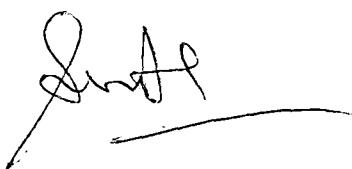
CORAM:

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

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer to quash and set aside the
impugned order dated 23.12.2000 and to direct the
respondents to give appointment to the applicant on
compassionate ground on the post of Mazdoor or any other
suitable job.

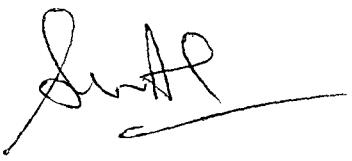
2. Facts of the case as stated by the applicant are
that father of the applicant Sh.Ramjilal died while in
service as Driver in the office of Garrison Engineer,
Nasirabad on 12.1.1989. The applicant applied for
appointment on compassionate ground but he was denied the
same vide order dated 23.12.2000. It is stated that the
applicant was only 15 years old at the time of his father's
death and there was nobody else to lookafter him. It is



stated that one Sh. Hari Ram kept him like slave upto 31.1.90. Thereafter, he was looked after by Shri Madanlal Sharma, maternal brother of his father. It is stated that at the time of pension settlement, the applicant was made the request of compassionate appointment which was considered by the board of officers in head-quarters, Chief Engineer, Jaipur Zone, but he was not given appointment due to want of vacancy. Again his name was considered by board of officers and his name was approved but he was not given appointment as mentioned in the impugned order dated 23.12.2000. It is stated that the denial of appointment to the applicant is contrary to law, facts and material available on record which frustrate the very purpose for providing appointment on compassionate ground. Hence, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated that the case of the applicant was considered by all concerned authorities and thereafter reached to the conclusion that as per latest rules/regulations and decision of Hon'ble Supreme Court, the applicant is not entitled to appointment on compassionate ground and passed the order dated 23.12.2000 and the same was communicated to the applicant. It is stated that the applicant was paid Rs.64126/- as terminal benefit after the death of his father and was getting family pension @ Rs.1556/- per month plus dearness relief. It is stated that the case of the applicant was considered objectively and thereafter it was decided that the applicant is not entitled to appointment on compassionate grounds, hence rejected vide the impugned order dated 23.12.2000. Thus, the applicant has no case.

4. Heard the learned counsel for the parties and also



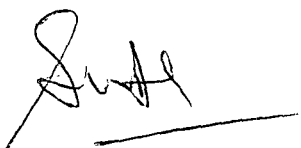
perused the whole record.

5. The learned counsel for the applicant vehemently urged that the request of the applicant for appointment on compassionate ground was approved by the board of officers but the competent authority has rejected the case of the applicant arbitrarily against law and facts vide impugned order dated 23.12.2000 which is not sustainable in law and the applicant is entitled to appointment on compassionate grounds. In support of his contentions, he has referred to (i) 1995(5) SLR 274, Hakim Singh Vs. HSEB & Anr, and (ii) 1995(5) SLR 34 Bhagwanji Manobhai Khatana Vs. State of Gujrat & Ors. On the other hand, the learned counsel for the respondents argued that the case of the applicant was objectively considered by the competent authority and no indigent circumstances existed, therefore, it was rejected vide the impugned order dated 23.12.2000, which is perfectly legal and valid and no interference is called for.

6. I have given anxious consideration to the rival contentions of both the parties and perused the whole record.

7. In catena of cases Hon'ble Supreme Court has been of the view that while considering the candidature of applicant for appointment on compassionate ground, the department must examine the financial status and position as to whether the family of the deceased employee needs any help to survive or their exist any indigent circumstances in the family of the deceased employee who was only the bread earner of the family.

8. In Umesh Kumar Nagpal Vs. 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



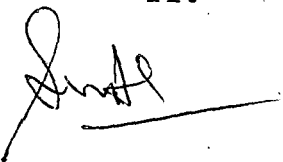
enable the family to tide over the sudden crisis, the object is not to give a member of such family a post much less a post held by the deceased.

9. In Jagdish Prasad Vs. 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 cause to the family. In the case of Union of India Vs. Bhagwan Singh, 1995(6) SCC 476, in Haryana State Electricity Board & Anr. Vs. Hakim Singn, JT 1997(8) SC 332 and in Haryana State Electricity Board Vs. Naresh Tanwar, 1996(2) SLR SC 11, the Hon'ble Supreme Court has taken a similar view.

10. In the case of ^{State} Uttar Pradesh Vs. Paras Nath, AIR 1998 SC 2612, the Hon'ble Supreme Court set aside the judgment of Allahabad High Court and laid down as under:

"5, The purpose of providing employment to a dependent of a Govt servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased Govt servant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present case."

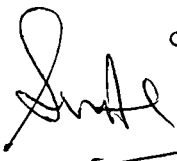
11. In the latest decision of the Supreme Court in the



case of Sanjay Kumar Vs. State of Bihar, AIR 2000 SC 2782, it has been laid down that such reservation on compassionate grounds are made only with an intent to provide immediate relief to the family of the deceased employee. Their Lordships further laid down "there cannot be a reservation of a vacancy till such time as petitioner becomes major after a number of years unless there is some specific provision. The very basis of compassionate appointment is to see that family gets immediate relief."

12. In Narayan Bhattacharya & Anr. Vs. UOI & Ors, ATJ 2001(1) 601, Calcutta Bench of the Tribunal held that claim of appointment by the son of the deceased government employee on compassionate grounds is not sustainable because nearly 8 years have already expired after the death of Govt employee, therefore, emergent nature of crisis on account of death of employee cannot ^{be} said to have continued till now. Hence, the family cannot be said to be in considerable financial stringency.

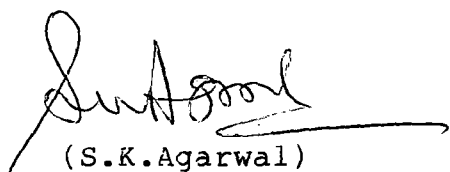
13. In the instant case, admittedly the deceased employee died on 12.1.1989. At the time of death of the deceased employee the age of the applicant was 15 years and now he appears to be more than 26 years of age. There is no other responsibility on the shoulders of the applicant which was leftover by the deceased employee. Therefore, in view of the facts and circumstances of this case and settled legal position as mentioned above, the applicant has no case for interference by this Tribunal and I can only say that the respondents' department has not committed any error in rejecting the representation of the applicant vide the impugned order dated 23.12.2000. Looking to the facts and circumstances of this case, the legal citations as referred



by the learned counsel for the applicant do not hold the applicant in any way. The counsel for the applicant has argued that the case of the applicant was approved, therefore, the department should be estopped to deny appointment to the applicant on compassionate ground. I am not inclined to accept the contention of the learned counsel for the applicant. As it emerges from the averments of the parties, the case was referred to the competent authority and the competent authority made objective assessment and on the basis of rules/regulations and latest Supreme Court's decision, opined that the applicant is not entitled to appointment on compassionate grounds. Therefore, merely that the department has referred the case to the competent authority does not entitle the applicant for appointment on compassionate grounds and the principles of estoppel is not applicable in this case at all.

14. In view of the above, I am of the opinion that the applicant has no case and this O.A devoid of any merit is liable to be dismissed.

15. I, therefore, dismiss this O.A having no merits with no order as to costs.



(S.K. Agarwal)

Member (J).