

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.405/2001

Date of order: 5/3/2002

K.Ravinder Kumar, S/o late Sh.K.M.K.Swamy, R/o 6-C-55, Vigyan Nagar Extension, Kota.

...Applicant.

Vs.

1. Union of India through Director General Medical Services (Army), Army Headquarters, New Delhi.
2. The Dy.Director (Medical) Headquarters Southern Command (Med.), Pune.
3. The Officer Commanding, Military Hospital, Jodhpur.

...Respondents.

None for the applicant

Mr.P.C.Sharma, proxy of Mr.Sanjay Pareek, for respondents.

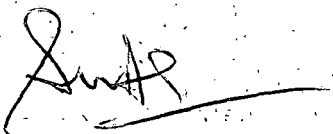
CORAM:

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 order dated 3.7.2001 issued by respondent No.1 whereby the appointment on compassionate grounds to the applicant was denied and to direct the respondents to reconsider the applicant as Class IV employee on compassionate grounds.

2. In brief, facts of the case as stated by the applicant are that the father of the applicant Sh.K.M.K.Swamy was a permanent Mali in Military Hospital, Jodhpur who died on 21.2.90 while in service. The applicant made a request for appointment on compassionate ground 2.3.90. Thereafter, the mother of the applicant wrote two letters to respondent No.3 for providing her son appointment on compassionate grounds. Thereafter, the applicant and his

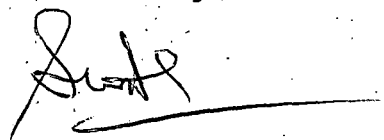


mother are continuously agitating the grievances before the respondents' department but ultimately, the respondents' department vide its letter dated 3.7.2001 rejected the request of the applicant on the ground that the application for appointment on compassionate grounds was made after 5 years of the death of his father and mother and brother of the applicant are already employed. Therefore, the applicant challenged the order dated 3.7.2001 in this O.A for the relief as above.

3. No reply appears to have been filed in spite of giving repeated opportunities.

4. Admittedly, the father of the applicant died on 21.2.90, at that time the age of the applicant was about 17 years. From the averments made by the applicant himself, it does not appear that any indigent circumstances exist in the family of the deceased as the mother of the applicant was in receipt of the retiral benefits and she was employed as Class IV employee and the brother of the applicant was also employed. In catena of judgment, Hon'ble Supreme Court has settled the controversy and decided that if the family has survived for years after death of the bread earner, there is no due need to extend the benefit of compassionate appointment.

5. The Apex Court in a similar case settled the controversy. In Sanjay Kumar Vs. State of Bihar & Ors, (2000) 7 SCC 192, it was held that belated application for getting appointment on compassionate grounds after the applicant has become major is time barred and the same is liable to be rejected. In this case, the mother of the applicant died in 1988 when the petitioner was 10 years of age and he made application in 1996, which was rejected as

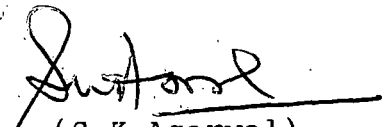


time barred. Hon'ble Supreme Court while delivering the judgment also considered the case decided by the Apex Court in Jagdish Prasad Vs. State of Bihar & Anr, (1996) 1 SCC 301.. State of U.P. & Ors Vs. Paras Nath, (1998) 2 SCC 412, & Director, of Education (Secondary) & Anr. Vs. Pushpendra Kumar & Ors, (1998) 5 SCC 192,

6. The law as propounded by the Supreme Court was followed by Division Bench of Himachal Pradesh High Court in Vikrant Thakur Vs. State Bank of India & Anr, 2001(4) SLR 478 and after considering the aforesaid legal citations as decided by the Supreme Court, it was held that if the family has survived for years after the death of the bread earner, there is no due need to extend the benefit of compassionate appointment.

10. In this case, no indigent circumstances could be established by the applicant and father of the applicant died in the year 1990, thereafter survival of the applicant for 10 years or more does not warrant this Tribunal to give any direction to the respondents for consideration of the candidature of the applicant for appointment on compassionate grounds. Therefore, in view of the facts and circumstances of this case and settled legal position, the applicant has no case for interference by this Tribunal and it is not a fit case for admission.

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

  
(S.K. Agarwal)

Member (J).