

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.559/2001 Date of order: 12/4/2002

Smt.Galku, W/o late Sh.Lala, R/o Vill.Tiwari Wala,
Post Dhankya, Distt.Jaipur.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Rly, Jaipur.

...Respondents.

Mr.R.S.Sharma : Counsel for applicant
Mr.R.G.Gupta : Counsel for respondents.

CORAM:

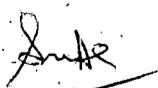
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative 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 at Anxx.Al and direct the respondents to give appointment to the applicant on compassionate grounds.

2. Brief facts of this case as stated by the applicant are that the husband of the applicant Sh.Lala who was in the service of the respondents' department died on 16.11.80 while in service leaving behind him two sons and two daughters (all minors). It is stated that the date of birth of the eldest son Kajod is 1.6.75 therefore the applicant filed an application on 26.5.95 for her son Kajod for his appointment on compassionate ground in Class IV category after attaining the age of 20 years. But respondent No.2 rejected the application on the ground that it was submitted after the prescribed period of limitation and the same was



communicated to the applicant vide the impugned letter dated 16.5.2000. It is stated that the impugned letter is wholly illegal, arbitrary and against the object for appointment on compassionate grounds as the object of compassionate appointment is to tide over the sudden financial crisis in the family of the deceased employee but respondent No.2 overlooked this principle while rejecting the application vide the impugned order at Annx.A1 and still indigent circumstances exist in the family of the deceased employee. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated in the reply that the eldest son of the deceased Sh.Lala attains majority on 1.6.1993 and the application for his appointment on compassionate grounds was filed on 26.5.95, after lapse of more than 2 years. It is also stated that the family of the deceased is having 13 bigha of agricultural land with well and electricity fittings and the land proved sufficient to maintain the family of the deceased and no indigent circumstances now exist in the family. It is further stated that after lapse of 22 years of the death of the deceased Railway employee, there is no justification to consider the case of the applicant for appointment on compassionate grounds and the competent authority has rightly declined the application of the applicant for compassionate appointment to her son. Therefore, 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 argued that the impugned order dated 16.5.2000 is wholly illegal, arbitrary and against the object of the appointment on



compassionate grounds, therefore, liable to be quashed and the son of the applicant is entitled to be considered for appointment on compassionate grounds. On the other hand the learned counsel for the respondents has objected this arguments and stated that no indigent circumstances exist in the family of the deceased employee even today and as per law laid down by the Apex Court of the country the case of the applicant is barred by limitation. Therefore, the respondents' department has not committed any illegality/irregularity in rejecting the application vide the impugned order dated 16.5.2000.

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

7. 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.

8. 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 caused 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 Singh, 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.

9. In the case of State of U.P Vs. Paras Nath, AIR 1998

Singh

SC 2612, Supreme Court set aside the judgment of Allahabad High Court and laid down as under:

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.

10. In 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. 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.

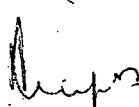
11. In Narayan Bhattacharya & Anr. Vs. UOI & Ors, ATJ 2001(1) 601, Calcutta Bench of the Tribunal held that claim of appointment by the son of the deceased Govt employee on compassionate grounds is not sustainable because nearly 8 years have already expired after the death of Govt employee, therefore, emergent nature of crisis on account of death of

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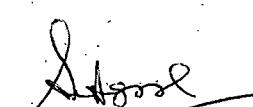
employee cannot be said to have continued till now. Hence, the family cannot be said to be in considerable financial stringency.

12. In the instant case, admittedly, the deceased employee died on 16.11.80 and the date of birth of the eldest son of the deceased is 1.6.75. It also appears that the first application for appointment on compassionate grounds of Shri Kajod was filed on 26.5.95 which was rejected and communicated to the applicant vide order dated 16.5.2000. It has also come in evidence that the applicant is having 13 bigha of agricultural land with well fitted with electricity and this land proved to provide reasonable amount of income to maintain the family of the deceased. Therefore, in 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 in our considered view respondent No:2 has not committed any error in rejecting the application filed by the applicant vide the impugned order dated 16.5.2000.

13. We, therefore, dismiss this O.A having no merits with no order as to costs.


(A.P.Nagrath)

Member (A)


(S.K.Agarwal)

Member (J)