

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.248/2002

Date of order: 13.9.2002

Mool Singh Shekhawat, S/o late Sh.Umed Singh Shekhawat,
R/o 223 Chand Bihari Nagar, Khatipura Road, Jaipur.

...Applicant.

Vs.

1. Union of India through its Secretary, Ministry of Defence,
New Delhi.
2. Commanding Officer & Station Health Organisation, Military
Hospital, Health Section, Jaipur.
3. Station Com.Officer, HQ 61 Independent Sub-Area through 50
APO.

...Respondents.

Mr.P.C.Sharma - Counsel for applicant.

CORAM:

Hon'ble Mr.H.O.Gupta, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER.

The applicant, who is the son of late Sn.Umed Singh, has filed this O.A on account of inaction on the part of the respondents by not providing him appointment on compassionate grounds.

2. Brief facts may now be noticed that late Sn.Umed Singh while working as Lascar under SHO Military Hospital, Jaipur, suddenly expired on 22.10.83 leaving behind him 5 unemployed sons and widow. After his death Smt.Sugan Kanwar, widow of late Umed Singh submitted an application on 20.1.84 for providing suitable employment to her elder son Sh.Samander Singh. This was followed by reminder dated 12.11.84 (Annx.A3).The applicant has also placed on record letter dated 21.12.84 (Annx.A4) by which the request for providing employment to Sh.Samander Singh

was rejected. Thereafter, the widow Smt. Sujan Kanwar has requested vide her application dated ⁴⁻⁰¹⁻⁹⁶ ~~30.4.95~~ (Annx.A7) for providing compassionate appointment to the applicant instead of Sh. Samdar Singh. Thus, it is for the first time, ~~that~~ after lapse of about 13 years, from the death of late Sh. Umed Singh, the case of the applicant for appointment on compassionate ground was taken. Since, as per the applicant, nothing was heard in the matter from the respondent authorities, he has filed the present application on the ground that the impugned order dated 21.12.84, whereby the case of Sh. Samander Singh, elder brother of the applicant, was rejected is bad and liable to be set aside. It has also been averred that the applicant is fully eligible for appointment on compassionate grounds and widow of late Sh. Umed Singh, is in an acute financial distress and there is no source of livelihood to the deceased family and without considering this aspect of the matter, the respondents have wrongly denied employment to the applicant. It is further stated that in other States and Central Govt, the provision of employment for the dependent of the deceased have been framed whereas in the case of the applicant this has been denied and such action of the respondents is violative of Articles 14 and 16 of the Constitution. Therefore, the applicant has filed this O.A for the relief as prayed for.

2. We have heard the learned counsel for the applicant and perused the material on record.

3. In this scenario the question which requires our consideration is as to whether directions should be issued to the respondents to consider the case of the applicant for appointment on compassionate grounds.

4. The law in this regard is well settled by the authoritative pronouncements of the Apex Court. Compassionate

appointment is an exception to the normal rule of appointment by following the prescribed procedure and is a special provision provided to tide over the unforeseen events and to mitigate the hardship to the family of the deceased employee. Compassionate appointment is not a matter of right. If there is a scheme providing for compassionate appointment and if the employer acts contrary to its own scheme, then alone in such a case of flagrant violation by an employer of its own scheme, then alone the Court may intervene in a given case. What is important to be noticed here is that an appointment on compassionate grounds is an exception to the rule of equality which enjoins an employer to follow the prescribed norms and procedures and not to act in an arbitrary manner and also it enjoins an employer to provide equal opportunity of employment to all citizens. Appointment on compassionate grounds is granted when an employee dies in harness leaving his family in penury without any means of livelihood. Grant of appointment on compassionate ground enables the family to tide over sudden crisis. As already stated, no body has any fundamental or statutory right to claim employment on compassionate grounds. It is also well settled that the right for an appointment on compassionate ground must exist as on the date on which cause of action arose therefore namely at the time when the employee dies in harness.

5. In the instant case the late Umed Singh died on 22.10.83. At that time the applicant was a minor which can be seen from the verification wherein he has shown his age as 32 years as on 1.5.02. The applicant could be appointed upon the ^{post} ~~father~~ provided he was eligible for. When he did not have the eligibility, the question of considering his case for appointment on compassionate ground did not arise.

W.S.

6. In Durand Didier Vs. Chief Secretary, UT of Goa, JT 1989 (3) SC 507, the Apex Court has emphasized that there should not be any delay in appointment. If a family has been able to tide over the crisis for a long time, the question of tiding over the immediate crisis would not arise.

6. In the instant case, the Mother of the applicant has made application for the first time on 4.1.96 (Annx.A7) for appointment of the applicant on compassionate ground, i.e. about 13 years after death of late Sh.Umed Singh. A perusal of this application reveals that the only ground for seeking employment for the applicant on compassionate ground was that presently she is being looked after by the applicant and not by Sh.Samundar Singh, the elder son of the widow whose case the mother was exposing since 1984. The ground of acute financial distress and there is no source of livelihood with her and with her sons have not been mentioned/pleaded. Nothing has been placed on record to show that even after 1996 the applicant was pressing the matter with the authorities and the present application has been filed after lapse of 6 years from the date when the case of the applicant was taken up for the first time and about 19 years after death of late Sn.Umed Singh. Thus, it cannot be said that the family of the deceased has not been able to tide over the crisis even after lapse of such long period. In Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138 the Apex Court pointed out that the whole object of granting compassionate employment 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. In the case of Director of Education & Anr. (1998) 5 SCC 192, Hon'ble Apex 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 earner which has left the family in penury 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.

7. Having regard to the fact that the applicant was minor at the time of death of his father and further more that the case of the applicant for giving him employment on compassionate ground was for the first time taken in 1996, i.e. after a lapse of 13 years and the present application has been filed after expiry of a period of about 19 years, we are of the view that no relief can be granted to the applicant at this belated stage and it cannot be said that the family is not able to tide over the sudden crisis even after lapse of two decades.

8. In view of above, the present applicant is disposed of at the stage of Admission.


(M.L. Chauhan)

Member (J)


(H.O. Gupta)

Member (A).