

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 205 of 2005

Gwalior, this the 22<sup>nd</sup> day of November, 2005

Hon'ble Shri Madan Mohan, Judicial Member

1. Walila Begum, Widow of late Bahauddin, aged about 55 years, R/o. Qr. No. 12/2, Type-C, Subhash Nagar, Ordnance Factory, Katni.
  2. Gulam Rasool, S/o. Late Bahauddin, aged about 27 years, R/o. Qr. No. 12/2, Type-C, Subhash Nagar, Ordnance Factory, Katni.
- ... Applicants

(By Advocate - Shri V. Tripathi)

V e r s u s

1. Union of India, through its Secretary, Ministry of Defence, (Defence Production), New Delhi.
  2. The Charman/Director General, Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Marg, Kolkata.
  3. The General Manager, Ordnance Factory, Katni, Distt. Katni.
- ... Respondents
- (By Advocate - Shri Manish Chourasia)

O R D E R

By filing this Original Application the applicants have claimed the following main reliefs :

"(ii) set aside the order dated 26.11.2002 Annexure A-1, order dated 6.12.2003 Annexure A-2 and order dated 23.8.2004 Annexure A-3,

(iii) direct the respondents to consider the case of the applicant No. 1 for compassionate appointment looking to his family circumstances."


2. The brief facts of the case are that the husband of the applicant No. 1 late Bahauddin Ticket was working as a Meltor in the respondents' Department. He died in harness on 2.5.2002 leaving behind his wife, two daughters and one son. The deceased Government servant has married his both daughters during his life time but unfortunately the elder daughter could not reside with her husband because he had taken



divorce from Smt. Fairatunisa on 18.4.2001 as per the Muslim custom. The applicant No. 1 preferred representations Annexure A-5, whereby she requested to provide compassionate appointment to her son Gulam Rasool applicant No.2. This representation was rejected vide order dated 26.11.2002. The applicant No. 1 again preferred a representation dated 8.5.2002 and further representations dated 10.12.2003 and 31.12.2002. In these representations she also mentioned that after divorce of her daughter, she is living alongwith her 3 son and one daughter. The applicant No. 1 had to shoulder the responsibility of the children of Smt. Fairatunisa because Smt. Fairatunisa has not source of livelihood. This time also the case of the applicants were rejected on 6.12.2003. The representations of the applicants were not considered by the respondents sympathetically. The applicants submitted further representation which was also rejected vide order dated 23.8.2004. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicants that the husband of the applicant No. 1 and father of the applicant No. 2 was an employee of the respondents and he died in harness on 2.5.2002 leaving behind him the applicant No. 1, two daughters and one son including the applicant No. 2. Both the daughters were married in the life time of the deceased Govt. servant but unfortunately the husband of the elder daughter of the deceased Govt. servant had taken divorce from Smt. Fairatunisa on 18.4.2001 as per the Muslim custom. The applicant No. 1 preferred representation which was rejected vide order dated 26.11.2002. Subsequently, she again submitted three representations mentioning this fact that Smt. Fairatunisa is divorced by her husband and is living along



with her four children, with the applicant No. 1, as Smt. Fairatunisa has no source of livelihood. This aspect was not considered by the respondents and the claim of the applicants was again rejected vide order dated 6.12.2003. The subsequent representation of the applicants was also rejected vide order dated 23.8.2004. The respondents have not considered the conditions of the applicants while passing the impugned orders. These orders are apparently non-speaking orders. The learned counsel for the applicants has drawn my attention towards Annexure R-2 and Annexure R-3. The respondents have not considered the case of the applicants in accordance with the rules and law and they have also not even considered the facts on record. Hence, the OA deserves to be allowed.

5. In reply the learned counsel for the respondents argued that after the death of the husband of the applicant No. 1 the terminal benefits like DCRG, CGEGIS, Leave encashment and family pension are paid to the applicant No. 1. The applicants have mentioned in the OA that both the daughters of the deceased Govt. servant are married at the life time of the deceased. The applicant No. 2 submitted an application on the prescribed proforma dated 20.6.2002 (Annexure R-2) in which he has himself narrated the names of both the daughters of the deceased as married. In case Smt. Fairatunisa got divorce from her husband and have become dependent on deceased family on 18.4.2001 then the applicant No. 2 could have mentioned her status as divorced but not as married in Annexure R-2. The case of the applicants has been considered by the respondents for three times. Hence, the action of the respondents is perfectly legal and justified and this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, I find that in Annexure R-2 dated 20.6.2002 <sup>at column No. 40</sup> it is clearly mentioned that

the applicant No. 2's two sisters are residing with his mother. I have also perused Annexure R-3 dated 8.12.2003 in which it is certified that Smt. Fairatunisa daughter of Bahauddin is orally divorced for three times on 18.4.2001. I have further perused the rejoinder filed on behalf of the applicants in which it is submitted <sup>that</sup> Smt. Fairatunisa after her divorce is residing with the applicants with her three son and one daughter, as she has no source of livelihood. I find that this fact is not considered by the respondents. They have mentioned in Annexure A-3 dated 23.8.2004 that the divorced daughter cannot be considered in the family of the applicants. It is not legally correct. The applicants when specifically alleged that Smt. Fairatunisa the divorced daughter of the deceased employee is residing with them with her three sons and one daughter as she has no source of livelihood, then this fact should have been considered by the respondents according to the law. Hence, the impugned order dated 23.8.2004 (Annexure A-3) cannot be said to have been passed after proper and legal consideration. I have perused Annexure A-1 dated 26.11.2002 which is apparently a non-speaking order as no reasons are contained in it. Similar is the condition of the second order dated 6.12.2003 Annexure A-2.

7. Considering all the facts and circumstances of the case, I quash and set aside the impugned orders dated 26.11.2002 (Annexure A-1), 6.12.2003 (Annexure A-2) and 23.8.2004 (Annexure A-3) and direct the respondents to reconsider the case of the applicant No. 2 for grant of compassionate appointment, within a period of three months from the date of receipt of a copy of this order, and pass a speaking, detailed and reasoned order, after taking into consideration the observations made above.



8. In view of the aforesaid, the Original Application stands disposed of. No costs.

(Madan Mohan)  
Judicial Member

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पल्लिखित अद्योचित:-

- (1) सचिव, उच्च न्यायालय और एडवोकेटजन, जबलपुर
- (2) आदेशक श्री/श्रीमती, वृत्त.....के काउंसल
- (3) प्रायकी श्री/श्रीमती/वृत्त.....के काउंसल
- (4) संयोजक, न्यायालय, जबलपुर तथा न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

N. K. Singh } PIN  
M. Chandra } PIN

28/11/55 रजिस्ट्रार

Issued  
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"SA"