

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 216 of 2003

Jabalpur, this the ^{9th} day of May 2003

Hon'ble Shri R.K. Upadhyaya - Administrative Member.
Hon'ble Shri J.K. Kaushik - Judicial Member.

Smt. Yashoda Bai, W/o. Late Khemchand,
aged about 50 years, R/o. Indira Nagar,
Near Rajaram Temple, Vehicle State,
Jabalpur (M.P.).

... Applicant

(By Advocate - Shri H.R. Bharti)

V e r s u s

1. Union of India, through
The Secretary, Defence Ministry,
New Delhi.
2. General Manager,
Ordinance Factory Khamariya,
Jabalpur (M.P.).

... Respondents

O R D E R

By J.K. Kaushik, Judicial Member :-

Smt. Yashoda Bai has filed this original application for seeking a direction to the respondents for providing job to her son Shri Vikram Singh on compassionate grounds.

2. The brief facts of the case are that the applicant's husband Shri Khemchand was employed on the post of Acidmen/
Crane Operator in the office of respondent No. 2. While on duty he expired due to sickness on 15/11/1996 and was survived with wife, two sons aged about 35 years and 30 years and one adopted daughter aged about 14 years. An application was moved to the respondents for compassionate appointment in respect of applicant's son Shri Vikram Singh. But the application has been rejected in arbitrary manner vide letter dated 29/12/1998 (Annexure A/3), whereas the applicant has two sons and one minor daughter and the family pension is not sufficient for the livelihood and aliveness of the family

members. The family is in very distress position and facing financial difficulties.

3. We have considered the submissions of the learned counsel for the applicant. A swift reference could be made in this case as regards the position as to whether the son in favour of whom the compassionate appointment is sought and who has attained the age of more than 25 years on the ^{date of} death of the deceased Government servant could at all be considered to be a dependent. The law position on this is amply clear from conjoint reading of the definition of dependent family member as envisaged in the scheme of compassionate appointment and that of the pension rules. As per the Appendix 2 Swamy's Pension Compilation at page 297 the definition of the dependent family member is as under :-

"Note I, - "Dependent Family Member" means :

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para,

Who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be."

"The further question arises as to who could be included in the family of the Government servant for the pensionary purposes. As per Rule 54 Sub Rule 14(b), the family means as under :

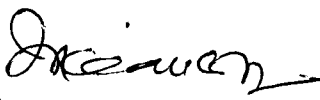
"(b) "family" in relation to a Government servant means :


- (i) wife in the case of a male Government servant, or husband in the case of a female Government servant.
- (ia) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.
- (ii) son who has not attained the age of (twenty five) years and unmarried daughter who has not attained the age of (twenty five) years, including such son and daughter adopted legally."



4. Reading the aforesaid rules together, a son who has attained the age of 25 years cannot be said to be dependent on a Government servant once he cannot be included in the very family of the deceased Government servant for the purpose of grant of pensionary benefits. Thus the son as included in the definition of dependent family member would not include a son who has attained the age of 25 years and we are required to give this interpretation as per the rules of harmonious construction of the statutes. Once the son who has attained the age of 25 years cannot be said to be dependent and is also not entitled for grant of any pensionary benefits as per the pensionary rules, he could not be said to be dependent for the purpose of compassionate appointment also. In the present case Shri Vikram Singh son of the deceased Government servant had attained the age of 35 years at the time of death of his father and by now he is of 43 years of age. Thus he cannot be said to be dependent family member of deceased Shri Khemchand. And if that be so the applicant's son would not be entitled for consideration of appointment on compassionate ground. Similar view has been taken by this Bench of the Tribunal in OA No. 694/1998 (Shiv Charan Vs. Union of India and others, decided on 29th April 2003) where the Bench consisted both of us. Copy placed in the file. Hence, the original application deserves dismissal.

5. The result as rather un-fortunate but we are left with no option except to declare this application as devoid of any merit and the original application is dismissed accordingly, with no order as to costs.


(J.K. KAUSHIK)
JUDICIAL MEMBER


(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

Issued
on 13.5.03
BS

पृष्ठांकन सं ओ/न्या.....जयपुर, दि.....
परिचालित करने के लिए

- (1) सचिव, उपसचिव, सहायक सचिव, सहायक सचिव
- (2) आवेदन प्राप्त होने पर उपसचिव के कार्यालय H R Bharti, Adm.
- (3) प्राथमिकी प्राप्त होने पर उपसचिव के कार्यालय
- (4) वसूली, वसूली, वसूली, वसूली

सूचना एवं आवश्यक कारवाही हेतु

[Signature]
उप सचिव
12/5/03