

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 546 of 2003

Jabalpur, this the 9th day of January, 2004

Hon'ble Shri G. Shanthappa, Judicial Member

1. Smt. Laxmi Bai Sen, W/o. Late Murarilal, aged about 48 years, R/o. House No. 323, Near House of Raju Shrivastava, Near Ram Nagar, Jabalpur (M.P.).
2. Shri Brejesh Kumar Sen, S/o. Late Murarilal, aged about 28 years, R/o. House No. 323, Near House of Raju Shrivastava, Near Ram Nagar, Jabalpur (M.P.).

... Applicants

(By Advocate - Ku. C.V. Rao)

V e r s u s

1. Union of India, Through the Ministry of Defence, New Delhi.
2. General Manager, Ordnance Factory, Khamaria, Jabalpur, 482005.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

The above Original Application is filed seeking the relief to direct the respondents to give employment to the applicant No. 2 on compassionate ground.

2. The brief facts of the case as stated by the applicants applicant No. 1 is the are that the wife of the deceased employee late Murarilal and applicant No. 2 is his son. Murarilal died on 17.09.2000 leaving behind the first applicant, second applicant and two daughters. The husband of the applicant No. 1 died in harness. The applicants submitted that as per their calculation in accordance with the circular dated 09.03.2001, issued by the Ministry of Defence, they have received total marks 65 out

of 100 marks. On the basis of the marks calculated by them the second applicant is entitled for appointment on compassionate ground. The respondents have issued the orders at Annexure A-4 dated 11.06.2003, which is not challenged in this application. They have rejected the claim of the applicants. Since the applicants are facing financial distress, they have requested for grant of appointment on compassionate ground to the applicant No. 2.

3. Per contra the respondents have filed their reply denying the averments made in the Original Application. The specific contention taken by the respondents are that they have calculated the scorings in accordance with the letter dated 09.03.2001 and 24.08.2001. The applicants scored only 53 marks out of 100. The details are as follows :

*Various parameters	Total points Based on 100 points.	Point secured by the applicant.
Family pension Rs. 1,720.00	20	14
Terminal benefits : DCRG -Rs. 62,748.00 CGEGIS -Rs. 20,483.00 Total <u>Rs. 83,229.00</u>	10	10
Monthly income of earning members and income from property- Nil.	05	05
Moveable/immoveable property-Nil.	10	10
No. of dependants-two	15	10
No. of un-married dau- ghter-Nil.	15	--
No. of children-Nil.	15	--
Left over service of the Govt. servant-7 years, 11 months.	10	04
Total	<u>100</u>	<u>53"</u>

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4. The respondents have considered the case of the ^{second} applicants. Since the ~~the~~ applicant is not deserving for grant of appointment on compassionate ground, they have issued the orders at Annexure A-4. The respondents have also produced the calculation vide Annexure R-2 in which they have mentioned that how marks are allotted to each and every heads. The total marks awarded to the applicant No. 2 is 53 out of 100 marks. The applicants have not filed any rejoinder to controvert the calculation made by the respondents. Since the respondents have considered the case of the applicant in all aspects including the judgment of the Hon'ble Supreme Court, they have rejected the claim of the applicant and issued Annexure A-4.

5. After hearing the either sides, perusal of the pleadings and the documents, I proceed to decide the case finally.

6. The admitted facts are that the applicants have received terminal benefits and family pension as mentioned above. The second applicant is major and he has submitted the application for appointment on compassionate ground. According to the calculation of the applicants they have secured 65 marks out of 100 and the respondents vide their calculation, the second applicant has received 53 marks out of 100 marks. The calculation which has been submitted by the respondents has to be considered at this stage because the ~~the~~ applicants have not controverted the same. The decision submitted by the applicants given by the Hon'ble High Court of Himachal Pradesh in the case of Arun Kumar Versus Union of India reported in 2003(2) ATJ 152, the Hon'ble High Court has relied on the decision of the Hon'ble Supreme Court in the case of Smt.

Gp.

Sushma Gosain Vs. Union of India reported in AIR 1989 SC 1976 and allowed the Writ Petition and directed the respondents to re-examine the case of the petitioners in accordance with the scheme.

7. The learned advocate for the respondents have submitted that they have considered all aspects in accordance with the rules and also the judgment of the Hon'ble Supreme Court. There is no need to further re-examine the case of the second applicant. Accordingly, the Original Application is liable to be dismissed.

8. Since the applicant has no legal right for grant of appointment on compassionate ground and they have not come within the purview of the circular for appointment on compassionate ground, they have failed to prove their case for compassionate appointment.

9. Taking all views of the Hon'ble Supreme Court, Hon'ble High Court and also the facts of this case, I find that the case of the applicants is not covered under the said judgment reported above. ^{The reasons mentioned at para 3 and 6 above are accepted.} Accordingly, the applicants have failed to prove their case. Hence the Original Application is dismissed. No costs.


(G. Shanthappa)
Judicial Member

File sent.
23.1.04

प्रतिपक्षीय संशोधन.....

(1) SA
(2) SA
(3) SA
(4) SA

KV C.V. Rao
Shri P. Shalaram 14.1.04

सूचना एवं आवश्यक कार्रवाई हेतु
रजिस्ट्रार 23/1/04