

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

...

original Application No. 635/2001

Jabalpur, this the 6th day of February, 2004

Hon'ble Shri G.Shanthappa, Judicial Member

Tara Bai w/o late Phool Chand Kewat,
R/o House No. 1607, Chandmari Road,
Om Toria, Kachhiyana Mohalla,
Jabalpur (MP).

...Applicant

(By Advocate: Shri T.N.Dubey)

-versus-

1. Union of India through
Secretary,
Ministry of Defence (DGQA),
Union of India,
New Delhi (India).
2. The Director General,
Controllerate of Quality Assurance (Weapons),
New Delhi (India).
3. The General Manager,
Gun Carriage Factory,
Jabalpur (MP).
4. The Controller of Quality Assurance (W),
G.C.F.,
Jabalpur (MP).
...Respondents

(By Advocate: Shri Om Namdeo)

O R D E R

The aforesaid application has been filed by the applicant seeking the relief to direct the respondents to provide compassionate appointment to the applicant's son Chhatradhari.

2. The brief facts of the case are that the husband of the applicant died in harness on 3.3.1988 leaving behind the applicant, one daughter and two sons, namely, Durgabai, Kishanlal and Chhatradhari. The applicant submitted an application on 5.4.1988 for appointment of her son Kishanlal on compassionate grounds. Since he was suffering from T.B., the



applicant withdrew her application dated 5.4.1988 and requested the respondents vide her another application dated 17.10.1989 for appointment on compassionate grounds in her favour. Subsequently her son Kishanlal died on 27.5.2000. When the applicant did not receive any response from the respondents, she submitted one more application dated 13.12.1999 requesting the respondents to offer appointment on compassionate grounds to her ~~another~~ son Chhatradhari. Since the applicant did not receive any response from the respondents, she approached this Tribunal for direction to the respondents to offer an appointment to her son Chhatradhari on compassionate grounds.

3. The respondents have filed their detailed reply denying the averments made in the original Application and stated that the applicant has suppressed the material fact to the effect that she was facing a criminal case bearing No. 1023/86 for the offences ^{punishable} under Section 325 IPC and was undergoing four years rigorous imprisonment. The main ground of the respondents is that there is an inordinate delay in filing the present O.A. in support of which no M.A. for condonation of delay has been filed by the applicant. Hence, on this ground alone, the application is liable to be dismissed.

4. On the application submitted by the applicant, the respondents had sent letters to the applicant at her given address but of no avail. The respondents came to know from some local newspapers that some female prisoners alongwith Smt. Tara Bai i.e. the applicant were transferred from Jabalpur Central Jail to Female Jail Hoshangabad. After making correspondence with the Jail authorities, respondents came to know that the applicant was prosecuted in a criminal case in IPC Sec.325 and is undergoing rigorous imprisonment for a period of four years w.e.f. 19.08.1992. Hence, no member of applicant's family ever asked for employment on compassionate grounds neither any information to this effect was given.

In this view of the matter, the respondents closed the case of the applicant on 9.12.1992.

5. After a lapse of eleven years, the applicant had submitted a representation dated nil in which she had requested for providing appointment to her son Chhatradhari on compassionate grounds. The competent authority considered the said representation of the applicant and was not inclined to agree and the said decision was communicated to the applicant vide their letter dated 11.5.2000. Since none of the communications of the respondents were responded to by the applicant and she had somehow managed to lead her entire family from 3.3.1988 till the date of approaching the respondents i.e. 13.12.1999, she has failed to prove her case for appointment on compassionate grounds. The respondents further submitted that at no point of time Shri Chhatradhari, the son of the applicant, had submitted any application for appointment on compassionate grounds. Since Shri Chhatradhari, the son of the applicant, has not been made a party in the present application, the applicant is not entitled for the relief prayed for.

5. I have heard the learned counsel for the parties and have perused the material facts available on record.

6. The admitted facts of the case are, that, the applicant was in police custody under the judgement of criminal court in criminal case No. 1023/86, and was undergoing four years rigorous imprisonment. She was detained in Jabalpur Central Jail and Female Jail Hoshangabad. All the communications sent by the respondents to the applicant were returned and there was no response from her. The applicant, after a lapse of eleven years, approached the respondents for providing employment to her son Chhatradhari on compassionate grounds by submitting an application dated 13.12.1999 which was considered and rejected by the respondents vide their letter dated 19.12.2000. The respondents came to know about the conviction of the applicant through the Superintendent of

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Police vide their letter dated 2.11.1992 (Annexure R-XIII).

The applicant, while approaching this Tribunal, suppressed the material facts and stated that no reasonable opportunity was afforded to her before rejecting her claim.

7. After carefully verifying the documents and the pleadings on record, I am of the considered view that the applicant has failed to give reasons to consider her claim after a long delay of eleven years. If the applicant was in police custody, her son Sh. Chhatradhari could have persuaded the respondents for appointment on compassionate grounds, which he had not done. Moreover, the applicant has not shown any sudden crisis resulting due to the death of her husband, who was the only bread earner.

8. In view of the judgement of the Hon'ble Supreme Court rendered in the case of Director, Defence Metal Research Laboratory and Another vs. G.Murali, reported in 2003 Supreme Court Cases (L&S) 1183, the belated claim shall not be considered for seeking compassionate appointment on the ground that the family has been managing somehow for the last 18 years as such the case is not covered under the existing instructions issued by the Government. The said judgement has been rendered by applying the guidelines contained in DoP&T OM dated 17.2.1988. The present case is fully covered under the said guidelines. In the instant case there is a delay of eleven years in approaching the Tribunal. Hence, the said judgement squarely covers the present case. Learned advocate for the applicant has also submitted the judgement of the Hon'ble High Court of Madhya Pradesh rendered in the case of Kanchhedi Lal Ghasita vs. Union of India & ors., reported in 2002(4)M.P.H.T. 405(DB) in which it has been held that the belated claim for compassionate appointment can be considered. In the said case there was a delay of five years in approaching the respondents for appointment on compassionate grounds. The applicant was surviving all along and was getting pension from the Railways, but that

would not disentitle him from seeking appointment on compassionate ground. Apart from the fact that pension is meagre and he is surviving all along, Railways has provided occasion for the wards of its employees dying in harness or medically de-categorised to seek employment on compassionate ground. Therefore, policy exists and applies irrespective of the fact that employee or his family is in receipt of pension but the eligible applicant has to apply for the same within the frame work of the rules/circulars/clarifications on the subject, otherwise in absence of any provision providing for relaxation, his case would be barred by time. Delay sometimes defeats the object and this may be one such case. Accordingly the case was dismissed. Hence, the said judgement is not helpful for the applicant. The respondents have further cited one more judgement of the High Court of Judicator at Patna in the case of Santosh Kumar Tiwary vs. The Union of India & others, in C.W.J.C. No. 13900/2001. In the said judgement there was a delay of 15 years from the death of the employee in approaching the respondents for appointment on compassionate ground. The High Court has also rejected the said Writ Petition applying the ratio of the judgement of the Hon'ble Supreme Court rendered in the case of Smt. Sushma Gosain and Others vs. Union of India & ors., reported in AIR 1989 (SC) 1976. The said judgement is also applicable regarding delay in approaching the respondents as the same is belated one. The Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana & Ors. reported in (1994) 4 SCC 138, has held that the whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object being to relieve the family of the financial destitution and to help it get over the emergency, the provision of employment in lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. There must be a reasonable time to approach the respondents for appointment on compassionate

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ground. Hon'ble Supreme Court has time and again held that the applicant has no legal and vested right for seeking employment on compassionate ground.

9. Taking overall consideration and also various judgements of the Hon'ble Supreme Court, I am of the considered view that the applicant has not made out her case for the reliefs claimed in the present application. The present application fails on the following points:

- i) The applicant has not filed any M.A. for condonation of delay;
- ii) The applicant was admittedly disqualified for seeking appointment on compassionate grounds as she was undergoing four years rigorous imprisonment;
- iii) The applicant has not made her son, for whom the appointment on compassionate is sought, as a party in the present case;
- iv) The son of the applicant has never made any application for appointment on compassionate grounds;
- v) Since the applicant has managed to lead her entire family for a long period of 11 years, she cannot shift her claim from one person to another.

10. In view of the above discussion, the present original Application is dismissed with no order as to the costs.

G.Shanthappa
(G.Shanthappa)
Judicial Member

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*Justice
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