

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 771 of 2001

Jabalpur, this the 14th day of May, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Smt. Champa Bai Chaudhary
W/o Late Shri Mohan Lal
Chaudhary, aged about 50 years
House No. 3742, Kanchghar
Nai Basti, Jabalpur.

APPLICANT

(By Advocate - Shri M.R. Chandra)

VERSUS

1. Union of India,
Ministry of Defence
Through its Secretary,
New Delhi.

2. General Manager,
Vehicle Factory,
Jabalpur (M.P.)

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (ORAL)

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought
the following main reliefs :-

"a) Madamus, directing the respondent no.2
to provide compassionate appointment to the
daughter Ku. Sangeeta Chaudhary of the applicant.

b) Certiorari, quashing the order dated
21.1.1999, Annexure-A-7 passed by the respondent
No.2".

2. The brief facts of the case are that the
husband of the applicant late Mohan Lal Chaudhary
was an employee of the Vehicle Factory, Jabalpur.
He died on 15.5.1998. The applicant was paid a
cheque dated 12.8.1998 amounting to Rs. 1,10,569/-
on 21.8.1998. In addition to this, she was paid an
amount of Rs. 8,000/- by the union under the Labour
Welfare Fund and an amount of Rs. 50,000/- was paid
in cash. Thus a total sum of Rs. 1,48,569/- was paid
to the applicant, after her husband's death.

2.1 The applicant applied to the respondents for providing compassionate appointment to her unmarried daughter Kum. Sangeeta Chaudhary vide her application dated 30.6.1998, who is 12th pass. The applicant also belongs to scheduled caste category. The daughter of the applicant also knows Hindi typing and shorthand. After consideration of the request of the applicant for compassionate appointment to her daughter, she was informed/that on the basis of merit, her case does not fall within the below poverty line. It was also informed to her that she has received Rs. 2,16,347/- under various heads and is also getting family pension of Rs. 1937/- per month and further there are only two members in the family having their own house. Therefore, the application submitted for providing compassionate appointment to applicant's daughter was rejected. According to applicant she does not own any house. The house, which has been mentioned in the impugned order, was sold by her husband during his life time on 16.1.1998. The applicant, therefore, informed the respondents vide her application dated 14.5.2001 about the said fact and narrated the pitiable condition of the family. She also informed that her family consists of three members, i.e. two unmarried daughters and herself. Thus, the entire criteria adopted while rejecting the application for compassionate appointment made by the applicant for her daughter Ku. Sangeeta Chaudhary is incorrect and, therefore, the rejection of the application is illegal and arbitrary.

2.2 The applicant submitted another representation on 27.8.2001 for compassionate appointment to her daughter. The applicant is having information that the compassionate appointment has been given to the persons who are less indigent than the applicant & her family.

Therefore, the rejection of her application for compassionate appointment is illegal and arbitrary. Hence, this O.A. has been filed.

3. Heard the learned counsel for both the parties.
4. It is argued on behalf of the applicant that the applicant has two unmarried daughters and does not own any house in her name as the house mentioned in the impugned order was sold by her husband during his life time and a meagre amount of Rs. 1937/- per month is being received by her towards family pension. It is further argued that the amount told by the respondents as a retiral benefits i.e. Rs. 2,16,347/- is wrong whereas she has received only Rs. 1,48,569/-. It is further argued that the applicant is facing acute financial crisis. Our attention was drawn to the judgement of the Hon'ble Supreme Court rendered in the case of Balbir Kaur & Anr. vs. Steel Authority of India Ltd. & Ors, reported in 2000 LAB.I.C. 1900 in which it is held that the compassionate appointment - benefit of - cannot be negatived on ground of introduction of scheme assuring regular monthly income to disabled employee or dependents of deceased employee. It is further held that the feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of bread earner, but that would undoubtedly bring some solace to the situation. It is further held that the question of depositing the lump sum provident fund and gratuity amount with the employer cannot be in any way equated with the benefit of compassionate appointments. The introduction of family benefit scheme cannot be a ground to refuse benefit of compassionate

(P)

appointment.

5. In reply, the learned counsel for the respondents argued that the Scheme for grant of compassionate appointment is purely a welfare measure to provide immediate financial assistance to the family of an employee who is placed in great distress. The applicant cannot claim compassionate appointment as a matter of right. The applicant is receiving a sum of Rs. 1937/- towards monthly family pension and she has received a sum of Rs. 216347/- as terminal benefits. It is further argued that the compassionate appointment is to be provided to deserving cases purely as a welfare measure to provide relief to family of ex-employee placed in great distress. He further argued that the applicant's case was fully considered by the competent authority on merits on the basis of rules and instructions issued from time to time by the Govt. with regard to the death in harness Scheme and no discrimination has been made against the applicant. It is further submitted that on the spot verification by the Labour Officer, the house property is owned by the applicant. Hence, she is not entitled for the relief prayed for and the O.A. is liable to be dismissed.

6. After hearing the learned counsel on either side and careful perusal of the record, we find that the applicant has two unmarried daughters to look after. It is also seen that the applicant has specifically said in her O.A. that the alleged house was sold by her husband on 16.1.1998 during his life time to one Shri Milindra Surose and in support to her contention a copy of the Sale Deed and receipt by which an amount of Rs. 50,000/- was received by her late husband have been annexed as Annexures A-8 and A-9. Against this argument, the contention of the respondents does not seem to be trustworthy which is based on the report of one Labour Officer



submitted on 20.7.1998 because the document of title is the conclusive proof about the ownership of the immovable property which has been filed by the applicant along with her O.A. and the same is more trustworthy. Hence, it is clear that the applicant does not own any house in her name. She has two unmarried daughters who are to be married and apparently they are dependent on the applicant till their marriage. It is an admitted fact that the applicant is receiving only a sum of Rs. 1937/- per month towards family pension. We have gone through the judgement of the Hon'ble Supreme Court rendered in the case of Balbir Kaur & Anr. vs. Steel Authority of India & Ors. (supra) which says that the introduction of family benefit scheme cannot be a ground to refuse benefit of compassionate ground to the dependents of deceased employee.

7. In the circumstances mentioned above, we deem it proper and appropriate to direct the respondents to re-consider the claim of the applicant for providing compassionate appointment to her daughter Ku. Sangeeta Chaudhary keeping in view her education qualification/technical qualification i.e. knowledge of Hindi Shorthand and typing and also in the light of the observations made above, within a period of three months from the date of receipt of a copy of this order and pass an appropriate and speaking, detailed & reasoned order under intimation to the applicant promptly.

8. In the result, the O.A. is disposed of with the above directions. No costs.


(Madan Mohan)
Member (J)

/ma/-


(M.P. Singh)
Vice Chairman