

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 890/02

Jabalpur, this 23rd day of April, 2004

Hon'ble Mr. Madan Mohan, Member (J)

1. Smt. Rukmani Bai w/o late Sukhram,
Aged about 58 years,
R/o village Silua, Samadhi Road,
P.S. Barela, Post. Nimbkheda,
Jabalpur.

2. Man Mohan s/o late Sukhram,
aged about 26 years,
R/o village Silua, Samadhi Road,
P.S. Barela, Post Nimbkheda,
Jabalpur.

...Applicants

(By Advocate: Shri Vijay Tripathi for Shri S.Paul)

-versus-

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi.

2. The Chairman,
Ordnance Factories Board,
10-A, Shahid Khudi Ram Bose Marg,
Kolkata.

3. The General Manager,
Ordnance Factory, Khamariya,
Jabalpur.

...Respondents

(By Advocate: Shri P.Shankaran)

O R D E R (ORAL)

By filing the above application, the applicant has claimed the following main reliefs:-

- i) set aside the order dated 7.8.2001 (Annexure A-1).
- ii) command the respondents to provide compassionate appointment to the applicant no. 2.

2. The brief facts of the case are that the applicant no. 1 is widow of deceased Sukh Ram who was working as Line Mistry in Ordnance Factory, Khamaria at Jabalpur. Shri Sukhram was suffering from cancer and he died on 15.1.2001 leaving behind seven family members out of them one Gayasi Bai is un-married daughter. AS Shri Sukhram was suffering from cancer, the applicants had to spent lot of money in his treatment and, therefore, the applicants had taken



loan of about Rs. 2.5 lakhs. It is submitted that the entire retiral dues were spent to repay the loan amount and presently the applicants are facing great financial hardships. The elder son of the applicant no. 1 is residing separately alongwith his family. He has nothing to do with the applicant and he is not providing any assistance to applicant no. 1 and her children.

2.1 After the death of Sukhram the applicant no. 1 preferred an application dated 28.5.2001 to provide compassionate appointment to applicant no. 2. However, the representation of the applicant no. 1 was rejected vide order dated 7.8.01 on the basis of flimsy ground. The reason assigned in the impugned order is baseless, incorrect and improper. Certain other persons have been given compassionate appointment who were less deserving than the applicant. One Shri R.K. Goswami died on 22.3.2000, immediately after his death his wife was provided with the compassionate appointment on 19.4.2000 on the post of Lower Division Clerk while after the death of said Goswami, his family received near about Rs. 8 lakhs towards the retiral dues and his wife is receiving a sum of Rs. 5000/- per month towards pension.

2.3 After receiving the rejection order dated 28.5.2001, the applicants again preferred a representation (A/3) wherein they brought this fact to the notice of the authorities that the wife of late Shri R.K. Goswami has been provided compassionate appointment though she was less deserving than the applicants. The action of the respondents is arbitrary, unjust, unreasonable, unfair and discriminatory in nature in not granting the compassionate appointment to applicant no. 2. Hence, this application.

3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicants that late Sukh-Ram was an employee of the respondents and he was suffering from cancer and died on 15.1.2001. The applicants had taken a loan of near about Rs. 2.5 lakhs for the treatment of the



deceased hence the entire retiral benefits were spent to repay the above loan. It is further argued that one Gayasi Bai is un-married daughter, who has attained the age of more than 30 years. It is further argued that the applicants are facing acute financial problems/hardships, hence, applicant no. 2, who is the son of the deceased employee, has applied for appointment on compassionate ground which has been illegally rejected without considering the family circumstances of the deceased. Learned counsel for the applicant has drawn my attention to the judgement of the Hon'ble High Court of Madhya Pradesh, Jabalpur passed in Writ Petition No. 2410/2001 on 23.6.2003 in the matter of Akeel Ahmed Khan vs. General Manager, State Bank of India & Ors, reported as 2003(4) M.P.H.T. 167, in support of his claim:


4. In reply, the learned counsel for the respondents argued that the treatment of cancer was easily available in the respondents Govt. hospital. It is further argued that no loan amount i.e. Rs. 2.5 lakhs was taken for the treatment of the deceased employee. Moreover, a huge amount of Rs. 268015/- was received by the family on account of terminal benefits and the applicants are also getting family pension of Rs. 2250/-p.m. plus dearness relief on that pension which is insufficient amount to meet the necessary expenses of the family. Hence, the family of the applicants is not facing any financial crisis.

5. After hearing the learned counsel for the parties and perusal of the judgement of the Hon'ble High Court, referred to above, I find that disease of cancer is a very serious type of disease and rather it is incurable if it is detected at a later stage and its treatment is very expensive and moreover the treatment of cancer is not easily available in all the Government Hospitals or in other hospitals. Hon'ble High Court of Madhya Pradesh in Writ Petition No. 2410/2001 decided on 23.6.2003 has clearly held that "petitioner's father died because of long ailment of cancer which he was suffering since 1974 and ultimately died on 27.4.2000. It is a



matter of common knowledge that in the ailment of cancer, the entire family suffers mental agony and financial loss - To survive the member of family, mere payment of some amount towards gratuity and pension will not be sufficient to meet out the crisis. If such appointment is refused merely on the ground that amount towards gratuity and provident fund was paid to the deceased's family will frustrate the entire purpose of compassionate appointment. Order rejecting the application for compassionate appointment of the petitioner is quashed. Respondents are directed to reconsider the matter. Petition allowed with costs."

6. In the present case I am of the view that late ~~Sachuram~~ ^{Sachuram} who was an employee of the respondents and was suffering from cancer and ultimately died on 15.1.2001, this fact is not denied by the respondents. In the facts and circumstances of the case and in the light of the judgement of the Hon'ble High Court of Madhya Pradesh in the matter of Akeel Ahmed Khan (supra), the O.A. is disposed of with directions to the respondents to re-consider the case of the applicant no. 2 for appointment on compassionate ground within a period of three months from the date of receipt of a copy of this order. No costs.


23/4/04

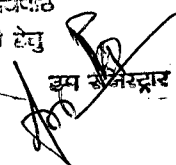
(Madan Mohan)
Member (Judicial)

/na/

पृष्ठांकन सं ओ/न्य/.....जबलपुर, दि.....
प्रतिलिपि काटे गिरा:-

- (1) सचिव, उच्च न्यायालय कार (कोरिडोर), जबलपुर
- (2) आदेश सं/...के काउंसलर S. Paul
- (3) सचिवी श्री/...के काउंसलर P. Shankar
- (4) कोषपाल, कोरिडोर, जबलपुर न्यायाधीश
सूचना एवं आन्वयिक कार्यालयी हेतु

*Insert
on
26/4/04*


इस संकेतद्वारा