

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR.

...

Original Application No. 186 of 2000  
this the 30<sup>th</sup> day of February '2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Ajay Kumar Burman, S/o late Shri Mullu Burman, aged about  
20 years, R/o Village & Post Gandhigram, Tehsil Sehora,  
District Jabalpur.

Applicant.

By Advocate : Sri Manoj Sharma.

Versus.

1. Union of India through the Secretary, Ministry of  
Defence, New Delhi.
2. The Sr. General Manager, G.C.F., Jabalpur.

Respondents.

By Advocate : Sri S.A. Dharmadhikari for Sri B.Desilva.

O R D E R

This is a second round of litigation as the applicant had initially applied for compassionate appointment after the death of his father late Sri Mullu Burman, who had died in harness on 23.10.1993. However, the respondents rejected the claim of the applicant for compassionate appointment vide their letter dated 27.5.1996 (Annexure A-4). This order was absolutely non-speaking order as there was no reason assigned therein as to why his case was rejected. Therefore, being aggrieved, the applicant filed O.A. no. 9 of 1998. The said O.A. was disposed of vide order dated 29.10.99 wherein it was recorded that the applicant could not be considered for compassionate appointment at the relevant time because he was minor and the Tribunal had given



liberty to the applicant to make a fresh application alongwith a copy of Court's order and the respondent no.2 was directed to dispose of the same after considering his case by passing a reasoned order within a period of five weeks from the date of receipt of the same. It is pursuant to the directions given by this Tribunal that the respondents passed an order dated 10.12.1997 (Annexure A-1) holding therein that at the time of death of his father, the applicant was minor being only 14 years, 9 months and 18 days, therefore, it was found not possible to give appointment to him. Otherwise, in the meantime, the applicant's mother had been given an amount of Rs.67813/- apart from pension @ Rs.257.50 to the widow and son both, which have now been revised to Rs.793 plus 37% D.A. after Vth Pay Commission. They have submitted that the applicant's elder brother namely Rajjan is married and is doing his own business and there are only two minor son and one daughter aged about 10 years who are dependents on them for which the amount of Rs.2173 on account of Pension is sufficient. More-over it is already a period of six years after the death of the deceased employee and if they have been able to survive so far, they could still survive in future also. They have relied on the judgment of Hon'ble Supreme Court given in the case of Umesh Kumar Nagpal and have stated that the object of compassionate appointment is to tide-over the sudden crises faced by the family after the death of the sole bread earner and simply because the person had died, his dependents do not become entitled for compassionate appointment as a matter of right. They have, thus, submitted that in view of the reasons given above, it is not possible to give also compassionate appointment to the applicant. They have relied on another judgment given by Hon'ble Supreme Court in the matter of Sanjay Kumar Vs. State of Bihar (2000 (87) FLR 132) wherein the Hon'ble Supreme Court has held that there cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years.

some specific provisions to that effect. On the basis of their submissions, the respondents have prayed that the O.A. may be dismissed with costs. It is this order which has been challenged by the applicant in the present O.A.

2. The applicant's counsel has submitted that as per O.M. dated 9.10.98 there is a specific provision for belated request for compassionate appointment and in such cases, the matter has to be referred at the level of the Secretary of the Department/Ministry concerned and since in the instant case the matter has not been referred to the Secretary, it needs to be remanded back for re-consideration. It is also submitted by the applicant's counsel that it will be too harsh to deny compassionate appointment simply on the ground that a period of six years has passed and so long the provision is there for consideration, the judgment given in Sanjay Kumar's case (supra) would not be applicable in the facts of the present case. He has further submitted that compassionate appointment cannot be denied merely on the ground that the family is getting pension because every-one is entitled for pension after the death of the employee as held in the case of Balbir Kaur by the Hon'ble Supreme Court and since in the instant case it is only the pension which has been taken into consideration for rejecting the claim of the applicant, the rejection is not valid in the eyes of law.

3. I have heard both the counsel and perused the pleadings as well.

4. In Sanjay Kumar's case (supra) the Hon'ble Supreme Court has held that there cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The specific provision is very much there in the O.M. dated 9.10.98 (Annexure A-8) and it categorically says that belated

request for compassionate appointment can be considered at the level of the Secretary of the Department/Ministry concerned, therefore, the judgment of Sanjay Kumar's case would not be applicable in the present facts of the case. It is also seen that the respondents have admitted that after the death of the employee, there are two minor sons and one un-married daughter (minor) left by the deceased employee, therefore, what the respondents were required to see is whether the financial condition of the family was such that <sup>they</sup> could still survive without any assistance from the department or could <sup>not</sup> survive <sup>without any</sup> assistance. The respondents have only taken into consideration the pensionary benefits, which were given to the widow of the deceased employee and as per the judgment of Hon'ble Supreme Court in Balbir Kaur's case, that alone cannot be a ground to deny the compassionate appointment. This is a case where the applicant was minor at the time when his father had died and within five years he had given his application, therefore, his case ought to have been placed before the Secretary of the Department or Ministry concerned, so that his case could have been considered by looking <sup>into</sup> all the factors as laid down by the Hon'ble Supreme Court from time to time.

5. In view of the above discussion, this matter is remanded back to the authorities once again with the direction to place the applicant's case before the Secretary concerned, who may pass a reasoned order after looking into all the aspects within a period of three months from the date of receipt of copy of this order.

6. With the above direction, the O.A. stands disposed off with no order as to costs.



(Mrs. Meera Chhibber)  
Member(J)

Girish/-

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....

यतिविविध अर्पित:-

- (1) सविन, उच्च न्यायालय द्वार एससिएशन, जबलपुर
- (2) जजपीड सी/श्रीमती/कु.....के काउंसल
- (3) सत्यजी सी/श्रीमती/कु.....के काउंसल
- (4) योगेश्वर, दंडेश्वर, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उपस्थिति  
26/7/03

Mr. Bhanna, Adl  
SA. Bhannachida  
Adl

Issued  
On 26.2.03  
BS