

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 762 of 1999

Jabalpur, this the 25th day of November, 2003

Hon'ble Shri G. Shanthappa, Judicial Member

1. Smt. Rajkumari Jain,  
Wd/o Late Shri Ashok Kumar  
Tulsiram Jain, aged about 49  
years, Resident of Navin Kutti,  
Kachhiyana, Lordganj, Jabalpur M.P.
2. Manish Kumar Jain, aged about 28  
yrs., son of Late Shri Ashok Kumar  
Tulsiram Jain, R/o Navin Kutti, Lord  
Ganj, Kachhiyana, Jabalpur M.P.

... Applicants

(By Advocate - Shri V. Tripathi on behalf of Shri S. Paul)

V e r s u s

1. Union of India, Through its  
Director, Directorate Central  
Public Works Department,  
(C.P.W.D) New Delhi.
2. Ku. Shaili Singh, D/o. Late Shri  
P.N. Singh, C/o. Chief Engineer,  
(Central Zone) Central Public  
Works Dept. Bhopal M.P.
3. Chief Engineer, (Central Zone),  
Central Public Works Dept.  
Bhopal M.P.
4. Chief Engineer P.W.D.  
National Capital Territory of  
Delhi, Zone-III Delhi Administration,  
New Delhi.

... Respondents

(By Advocate - Shri P. Shankaran for official respondents)

O R D E R (Oral)

The above Original Application seeking the relief for summoning the entire relevant record from the respondents including the records of the respondent No. 2, to set-aside the impugned orders dated 21.01.1999 (Annexure A-1), dt. 10.03.1999 (Annexure A-2), dt. 28.05.1999 (Annexure A-3) and dt. 15.10.1999 (Annexure A-4) and further seeking relief to command the respondents to consider/ appoint the applicant No. 2 on compassionate ground on a suitable post and if necessary set-aside the order dated

09.04.1999 (Annexure A-12) relating to the appointment of the respondent No. 2.

2. <sup>facts of the</sup> The <sup>case</sup> of the applicants are that the husband of the first applicant and the father of the second applicant one Shri Ashok Kumar Tulsiram Jain died in harness on 02.07.1998. The applicants submitted an application for appointment on compassionate ground to appoint the second applicant on any one of the post under the respondents Nos. 1, 3 and 4. Further the case of the applicants, ~~are~~ that the respondents Nos. 1, 3 and 4 have appointed the second respondent on the ground that her father was working as Superintending Engineer, CPWD, Bhopal, M.P. Though the <sup>father of the</sup> ~~reti-~~ral ~~date~~ of the second respondent is more than that of the applicants, the respondents have given appointment to her and shown discrimination among the second respondent and the applicants. The applicant No. 2 is also qualified and he has fulfilled the conditions for issue of an order for appointment on compassionate ground.

3. The respondents Nos. 1, 3 and 4 have rejected the claim of the applicants for appointment on compassionate ground without assigning any reasons. The reasons assigned is only that the ~~second~~ applican-t is not found fit for appointment on compassionate ground in view of the financial status of the family. The official respondents without hearing the applicant have rejected the claim. Hence the impugned orders are not sustainable in the eye of law which are liable to be quashed.

4. <sup>No. 2</sup> The case of the applicant is that his case should be considered at par with the consideration shown to the second respondent. Both the applicants and the second respondent are having well financial position and the action taken by the

respondents to reject the case of the applicant<sup>Ch</sup> and appoint<sup>Not</sup> the second respondent is not appropriate. Hence the case of the applicant should be considered as prayed for in the OA.

5. Per contra the respondents have filed a detailed reply stating that the family of the applicant has got Rs. 6.5 lacs as terminal benefits on the death of late A.T. Jain on 02.07.1998. The family is also receiving monthly pension at the rate of Rs. 4,750/- per month plus 37% relief thereon which makes it Rs. 6,507/- per month. The monthly return on the lumpsum amount of Rs. 6.5 lacs can be Rs. 6,500/- per month. The total amount of monthly income to the family, therefore, comes to Rs. 13,007/- per month as a whole. The family is also having immovable property. A copy of the details of the same has been given by the deceased late A.T. Jain himself, <sup>and which is</sup> enclosed as Annexure R-1. The financial condition of the applicants are quite sound and they happens to own two immovable properties, one spacious 3 storeyed house in commercial area measuring 2,565 Sq. Ft. in Maharashtra and one plot of 2,325 Sq. Ft. in Jabalpur. Th-us the applicant No. 2 is not entitled for appointment on compassionate ground, since the applicants have got sufficient means of livelihood.

6. The official respondents have further stated that regarding appointment given to the second respondent, the appointment is the destitution/penurious condition of the family which according to the Planning Commission is when the income <sup>of</sup> ~~for~~ <sup>Ch</sup> a family of five members is below Rs. 1767/- per month. In view of this <sup>Ch</sup> instruction<sup>Ch</sup> the case of the applicant No. 2 is not covered. <sup>Ch</sup> <sup>for appointment on compassionate ground</sup>

7. After filing the reply the applicants have filed this <sup>Ch</sup> <sup>Ch</sup> <sup>Ch</sup>


rejoinder to the reply contending that there is a family dispute among the family members of the applicants, for the property which was owned by the deceased. In the rejoinder the applicant has contended that the respondent No. 2 was less deserving candidate even then she has been given compassionate appointment. After the death of the father of the respondent No. 2, her family has received near about Rs. 13,44,000/- as retiral dues and the mother of the respondent No. 2 is getting Rs. 10,695/- as monthly pension. Her family is having immovable property having one flat in Basant Kunj Colony, New Delhi. The cost of the flat is near about Rs. 30 lacs. The elder brother of the respondent No. 2 is also on employment. In all respects the applicant No. 2 <sup>having</sup> is better case for grant of appointment on compassionate ground.

8. After hearing the learned counsel for the applicant and learned coun-sel for the respondents, I have decided the case on merits on perusal of the pleadings and documents on record.

9. The appointment on compassionate ground is not a matter of right since the respondents have given the order of appointment to the respondent No. 2, it is discriminatory in nature and the impugned orders passed by the official respondents are not speaking order. Hence the respondents should consider the case of the applicant as there was a discrimination shown against the second applicant and the second respondent.

10. Regarding financial condition of the family the Hon'ble Supreme Court has held in <sup>the case of</sup> Umesh Kumar Nagpal Vs. State of Harayana & Others <sup>JT</sup> reported in 1994(3) SC 525 that the whole

object of granting compassionate appointment is to enable the family to tide over the sudden crises on the death of its sole breadwinner. The respondents should consider the case of the applicant in view of the <sup>other</sup> judgments of the Hon'ble Supreme Court <sup>on the claim of the applicants etc.</sup> and also the discrimination shown among the applicant No. 2 and the respondent No. 2. Since the impugned orders are not speaking order, no reasons are assigned and no opportunity of hearing was granted to the applicants which <sup>is</sup> ~~was~~ violation of natural justice, the impugned orders are liable to be quashed. The official respondents are directed to consider the case of the applicant No. 2 at par with the second respondent and pass appropriate order keeping in mind the judgment of the Hon'ble Supreme Court, within, a period of 2 months from the date of receipt of copy of this order. only orders dated 21.01.1999, 10.3.99, 28.5.99 & 15.10.99 (Annexure A-1 to A-4 respectively) are <sup>partly</sup> ~~quashed~~.  
11. Accordingly the Original Application is <sup>partly</sup> ~~is~~ allowed.  
No costs.

  
(G. Shanthappa)  
Judicial Member

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*Filed*  
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*2-12-03*

पुस्तिका सं. ओ/का. .... दि. ....  
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S. Paul, Ach.  
P. Shankaran, Ach.  
*Winehana*  
*2/12/03*