

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 29.07. 2015

ORIGINAL APPLICATION NO. 060/00663/2014
Chandigarh, this the 31st day of July, 2015

...
CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)
...

Raj Kumar son of late Shri Om Parkash, resident of Ward No. 3,
Chhotta Pana, Kalanuar, District Rohtak, Haryana.

...APPLICANT

BY ADVOCATE: SHRI SURINDER GANDHI

VERSUS

1. Union of India through the Secretary, Government of India,
Ministry of Communications & Information Technology,
Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-
110001.
2. The Chief Postmaster General, Haryana Circle, Ambala Cantt.

...RESPONDENTS

BY ADVOCATE: MS. NIDHI GARG

ORDER

...
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-

The instant O.A. constitutes the second round of litigation by
the applicant seeking compassionate appointment on the sad
demise of his father, Shri Om Parkash Khurana, Postman, on

~

15.09.2003, who had taken voluntary retirement effective from 01.09.2003. Retiral benefits worth more than rupees three lacs were paid. As the Scheme for Compassionate Appointment applies to a dependent family member of a government servant who dies while in service or is retired on medical grounds under rule 2 of the CCS (Medical Examination) Rules 1957, the applicant was held not covered under the Scheme, his father having died only after his voluntary retirement. The reason that because his father had been suffering from AIDS, his notice for voluntary retirement was not voluntary as the same had not been given in his proper state of mind, was not accepted.

2. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

3. In the first O.A. filed by the applicant along with his mother, i.e., O.A. No. 70/HR/2004, this Tribunal, vide the Order dated 06.12.2005 (Annexure A-1), held as under:

"...In the present case, as already stated above, the notice tendered by the deceased employee was accepted and he was retired. At no point of time, himself, he had sought withdrawal of the notice or anybody came forward with the plea that the deceased had not been in a proper state of mind at the time of tendering notice A-1. Now, after completion of all the procedural formalities under the Rules and their consummation into his retirement, with all his retiral dues

~

the deceased Govt. employee. OA is disposed of with these observations. No costs."

4. The respondents took the matter to the hon'ble High Court of Punjab and Haryana through the CWP No. 5203-CAT/2006 (O&M), which was decided on 10.03.2014 (Annexure A-2). The High Court held as under:

"In our view, though one could have sympathy for the sake that late Shri Om Parkash was suffering from AIDS, it appears that he took a conscious decision to seek voluntary retirement from service under Rule 48 of the Rules, by giving three months' notice. The benefits, which were held admissible to late Shri Om Parkash, on his retirement are as under:

- (i) Family Pension ₹ 41,585/-
- (ii) DCRG ₹ 1,81,058/-
- (iii) Commutation value ₹ 1,24,995/-
- (iv) GPF ₹ 8,658/-
- (v) CGEIS ₹ 8,380/-

The rule for compassionate employment is not admissible to a person who has taken voluntary retirement from service and it has been held as much by the Tribunal. Once the conclusion is that the case of respondents does not fall within the Rules, there cannot be any direction to examine the case of the petitioners under the Rules and thus, the latter part of the direction has to be set aside.

We, however, are of the view that this does not preclude the petitioner/Department from considering such a case as an exception being a hard case on facts under any rule or provision, if it so exists to give benefit to the respondents and it is within that limited compass that the case of the respondents may be examined within a period of two months from today.

The petition accordingly stands disposed of." R

having been paid to the family, legally, it is difficult to restore the position ante, on the bald and belated plea that the deceased employee had not been in sound frame of mind at the time of tendering notice for voluntary retirement. In this view of the matter, no interference is warranted by this court with the order Annexure A-3, which is as per Rules.

Insofar as the claim applicant No. 1 for compassionate employment is concerned, as per the relevant Scheme, the same could be offered only to the dependents/wards of those Govt. servants, who die during service or, are retired on medical grounds. Apparently, the claim of the applicant is not covered under the Scheme.


Nevertheless, before parting, this court cannot help observing that the colleagues of the applicant as also the authorities in the department must have been aware of the factum of the deceased employee suffering from the dreaded disease and while parting company with his employer, he could have been properly guided to adopt/choose a course of action/approach, best-suited to the interests of his family, once it was known that his days were numbered. That would have been in keeping with spirit of the Govt.'s approach on the subject. It is a matter of common knowledge how much Govt. is spending on detection/prevention of AIDS, as well as, rehabilitation of those affected by the same. This was a case, where the deceased employee could have been suitably guided and advised to seek retirement on medical grounds whereunder the right of his dependants to seek compassionate employment would have remained intact.

In any case, in the peculiar facts and circumstances of this case, it would be in the fitness of things if the respondents 1&2 would examine the scenario besetting the bereaved family, whose sole bread-winner had died just within a fortnight of his voluntary retirement and consider offering some sort of employment assistance to applicant No. 1 in Group 'D' or some other form of relief on priority basis by obtaining special sanction of the competent authority, if so needed. It is expected and hoped that the respondents will consider the matter sympathetically and take suitable time-bound steps to alleviate the plight of the bereaved family of

5. Thereupon, the respondent no. 2, vide its communication dated 03.07.2014 (Annexure A-3), held as under:

"The case of the applicant has been considered carefully and dispassionately with reference to the facts and record of the case and taking into consideration the orders passed by the Hon'ble High Court for the States of Punjab & Haryana at Chandigarh. Sh. Om Parkash Khurana, father of the applicant, retired voluntarily from the service. All the due terminal benefits were granted to the applicant. Scheme for appointment on compassionate grounds provides appointment on compassionate grounds to the dependent family member of a government servant dying in harness. Since Sh. Om Parkash Khurana, father of the applicant, retired voluntarily from the service, he ceased to be a Government servant. There is no provision in the Scheme for appointment on compassionate grounds to appoint family member of the deceased pensioner. Hence, considering the case from all angles, the case of the applicant is rejected as it does not cover under the extant policy and guidelines issued by the Department of Personnel & Training, New Delhi."

6. The applicant through the instant O.A. prays for directions to the respondents to quash Annexure A-3 and give suitable class IV employment to him.

7. The ineligibility of the applicant under the Scheme for Compassionate Appointment is very clear and we do not see any infirmity in Annexure A-3. 

8. The O.A. is devoid of merits and is, therefore, dismissed. No order as to costs.

(DR. BRAHM A. AGRAWAL)
MEMBER(J)

(RAJWANT SANDHU)
MEMBER(A)

Dated: 31 .07.2015
'SK'