

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.3002/2015

**Reserved on :12.09.2017
Pronounced on:27.09.2017**

Hon'ble Ms. Praveen Mahajan, Member (A)

Manju
Age -45
W/o Lt. Shri G.R.Suman
Posted as Superintendent
H.No.171, Gali No. Subhash Nagar
Meerut (UP). Applicant
(By Advocate:Shri Naveen Sharma and Ms. Swati Bhushan
for Shri Yogesh Sharma)

VERSUS

1. The Central Board of Excise & Customs
Through its Chairman
North Block, New Delhi.
2. The Customs & Central Excise Deptt.
Through its Commissioner
C-56/42, Sector-62 Noida
Distt. Gautambudh Nagar.
3. Rakesh Kumar
S/o Lt. Shri G.R.Suman
R/o H. No.229/32-B, Gali No.3
Railway Colony, Mandwali
Delhi – 92.
4. Rajesh Kumar S/o Lt. Shri G.R.Suman
5. Shilpi S/o Lt. Shri G.R.Suman
6. Lalit Kumar
S/o Lt. Shri G.R.Suman
Address of Respondent No.4 to 6
H. No.171, Gali No. Subhash Nagar
Meerut (UP). Respondents.

(By Advocate:Shri Ranjan Tyagi and Shri Ranjit Sharma)

ORDER

The applicant has approached the Tribunal seeking the following reliefs :-

"a. Direct the respondents to give appointment according to the qualification of the applicant with all consequential benefits of seniority, pay allowances with arrears thereof, and all consequential benefits arising therefrom, and"

b. Award consequential benefits of pay, allowances, seniority to the Applicant, and GRANT cost in favor of the Applicant and PASS any other or further order(s), in favor of the Applicant, which this Hon'ble Tribunal may deem fit, just & proper in the above-mentioned facts and circumstances.

2. The brief facts of the case are that the applicant is the widow of the deceased, who was working as Superintendent in Central Excise Department. He died on 02.04.2008. The deceased had two marriages. The son of the deceased (respondent no.3) from his first wife, the step son of the applicant is living separately.

3. After death of her husband Shri G.R.Suman, the applicant made many representations to the respondents drawing their attention to her precarious financial situation. She was informed that her family pension matter was under process. When the respondents were about to release the pension in favour of the applicant, a suit was filed by respondent no.3 seeking injunction of Court to restrict the authorities to release pension to the petitioner.

4. On 04.03.2011, the court directed the authorities to release the family pension in favour of the present petitioner i.e. the Smt. Manju, wife of the deceased Shri G.R.Suman. It was ordered that:

"it is clarified that defendant No.1&2 are at liberty to release the family pension payable to the defendant No.3 (present petitioner) as per the CCS Pension Rules, since 3 years have already been passed after the death of Sh. G.R. Suman, it is expected that the authorities shall release the pension to the defendant No.3 (present petitioner) as expeditiously as possible".

Accordingly, the pension was released to her by Pension Payment Order dated 15.04.2011.

5. Since the pension amount was not sufficient to provide financial assistance to the family of the deceased, the applicant gave a reminder to the authorities for compassionate appointment on 02.03.2010. The respondents informed the petitioner on 18.09.2012 that Chief Commissioner of Central Excise, Lucknow has been asked to process her case as per DOPT guidelines on the subject. The current OA has been filed with the prayer to direct the respondents to give compassionate appointment to the applicant.

6. In the counter the respondents state that application regarding employment on compassionate ground, have been given by respondent no.3 i.e. son of late Shri G.R.Suman as well as by his widow Smt. Manju, the applicant in OA. The respondents state that there is inaction or negligence on their part as Smt. Manju is facing criminal charges in respect of suicide/murder of his husband and the case is in the process before the competent court.

7. A reply on behalf of respondent no.3 Shri Rakesh Kumar is also on record. It is stated therein that after the death of the deceased, the entire family was in a dismal situation because the deceased left four children and a widow behind him. Due to legal hurdles created by the applicant, he has not received the retiral benefits from the department. He submits that as per the will of late Shri G.R.Suman, he is entitled to retiral dues like Insurance, leave encashment and gratuity of late Shri G.R.Suman.

8. The applicant has filed rejoinder affidavit in reply to the counter submitted by respondent no.3. She states that since the applicant is the widow of late employee, and has the first and foremost right to be considered for

compassionate appointment if she is otherwise found to be eligible as she has not only to look after herself but her unmarried daughter too.

9. Heard both the learned counsels for some time and perused the available record.

10. From the facts available on record, it appears that there is more than one contender for compassionate appointment and other dues, after the death of the deceased Shri G.R.Suman namely, the applicant who is the deceased his 2nd wife and the son from his first wife Shri Rakesh Kumar, respondent no.3. It appears that various cases and counter cases have been filed by both of them staking their claim for compassionate appointment.

11. Scheme for appointment on compassionate grounds, to a dependent family member of a government servant, dying in harness, contains detailed instructions to be followed in such cases. The scheme was envisaged as a measure of relief to be provided to the family/dependents of the deceased immediately after the death of the employee. The current case is almost eight years old, and no decision has been taken by the respondents on the application of the applicant. The respondents must make up their mind about the eligibility or otherwise, of the claim of the applicant as per the rules and guidelines on the subject. I, therefore dispose of this OA, with a direction to the respondents to take a final decision in the matter taking into consideration the facts and circumstances of the case in the light of instructions on the subject, within a period of three months from the receipt of a certified copy of this order. No costs.

(Praveen Mahajan)
Member (A)

