

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

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**ORIGINAL APPLICATION NO.290/00205/2016
WITH MISC. APPLICATION NO.290/00068/2016**

: 02.04.2018

RESERVED ON

DATE OF DECISION: 04.04.2018

CORAM:

HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)

JOGA RAM S/O SHRI KUMPA RAM, AGED 26 YEARS; DECEASE SHRI KUMPA RAM MAZDOOR IN 41(I) SUPPLY DEPOT., JASSAI DISTRICT BARMER, R/O VILLAGE JASSAI, DISTRICT BARMER.

...APPLICANT

(BY ADVOCATE: SHRI VIJAY MEHTA)

VERSUS

1. UNION OF INDIA THROUGH THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF DEFENCE, RAKSHA BHAWAN, NEW DELHI.

2. COMMANDING OFFICER 14(I) SUPPLY DEPOT., JASSAI, DISTRICT BARMER.

...RESPONDENTS

(BY ADVOCATE: SHRI NIMESH SUTHAR)

ORDER

THE PLEADED CASE OF THE APPLICANT HEREIN IS THAT HIS FATHER LATE SHRI KUMPA RAM WAS WORKING AS A MAZDOOR IN THE OFFICE OF RESPONDENT NO.2, WHO DIED WHILE IN SERVICE ON 10.7.2014, LEAVING BEHIND THE FAMILY IN HARNESS. THE APPLICANT'S MOTHER SUBMITTED AN APPLICATION WITH THE RESPONDENTS FOR GRANT HIM EMPLOYMENT ON COMPASSIONATE GROUNDS. IT HAS FURTHER BEEN PLEADED THAT AS PER THE SCHEME PREVALENT IN THE DEPARTMENT, THE RESPONDENTS WERE REQUIRED TO DEPUTE A WELFARE OFFICER TO MEET WITH THE FAMILY MEMBERS AND ASSESS THEIR CONDITION FOR

GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS. NEITHER THE SAID WELFARE OFFICER VISITED THE FAMILY NOR ANY OBJECTIVE ASSESSMENT WITH REGARD TO FINANCIAL CONDITION, LIABILITY AND SOCIAL STATUS OF THE FAMILY WAS MADE. THE APPLICATION FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS TO THE APPLICANT HAS BEEN KEPT PENDING WITHOUT ANY COGENT REASON. AGGRIEVED OF IN-ACTION ON THE PART OF THE RESPONDENTS, THE APPLICANT HAS INVOKED THE JURISDICTION OF THIS TRIBUNAL U/S 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985 AND PRAYED FOR ISSUANCE OF A DIRECTION TO THE RESPONDENTS TO GRANT HIM EMPLOYMENT ON COMPASSIONATE GROUNDS. AN APPLICATION FOR CONDONATION OF DELAY IN FILING THE OA HAS ALSO BEEN FILED ALONG WITH THE OA.

2. THE RESPONDENTS BY WAY OF FILING A JOINT REPLY HAVE JOINED THE DEFENCE AND OPPOSED THE CLAIM OF THE APPLICANT PRIMARILY ON THE GROUND THAT THE APPLICANT'S MOTHER SMT. MAJU DEVI HAS SUBMITTED A FALSE DECLARATION ON 22ND SEPTEMBER, 2014 ON A SELF CERTIFIED NOTE STATING THEREIN THAT SHE HERSELF AND HER SON (JOGA RAM, APPLICANT HEREIN) ARE THE ONLY SURVIVING FAMILY MEMBERS OF THE DECEASED GOVT. EMPLOYEE. THE RESPONDENTS STARTED PROCESSING THE CASE FOR GRANT OF COMPASSIONATE APPOINTMENT TO THE APPLICANT. HOWEVER, ON DETAILED SCRUTINY OF THE OFFICIAL RECORD, THE DETAILS OF THE FAMILY MEMBERS DECLARED BY SHRI KUMPA RAM DURING HIS LIFE TIME SHOWED THE FAMILY MEMBERS AS SMT. MAJU DEVI-WIFE, SHRI UMEDA RAM- SON AND SHRI JOGA RAM- SON. THE DETAILS SUBMITTED BY HIM WERE IN STARK CONTRADICTION TO THE DECLARATION SUBMITTED BY THE APPLICANT'S MOTHER ON 22ND SEPTEMBER, 2014. IT HAS FURTHER BEEN PLEADED THAT THE DECEASED EMPLOYEE HAD SUBMITTED A NOMINATION FORM DURING HIS LIFE TIME TO THE DEPARTMENT ON 21.8.1995 IN WHICH HE HAD MENTIONED THE FAMILY MEMBERS AS - MAJU DEVI - WIFE, BANTTI - DAUGHTER, UMEDA RAM- SON, JOGA RAM- SON AND RACHNA KUMARI-DAUGHTER. SINCE THERE WAS AN ANOMALY IN THE DETAILS OF THE FAMILY MEMBERS SUBMITTED BY SMT. MAJU DEVI AND THE FAMILY MEMBERS DECLARED BY SHRI KUMPA RAM, THE RESPONDENTS ASKED THE APPLICANT TO OBTAIN A SUCCESSION/LEGAL HEIR CERTIFICATE FROM TEHSILDAR, BARMER. HOWEVER, HE OBTAINED A CERTIFICATE FROM GRAM PANCHAYAT SHOWING THE FAMILY MEMBERS AS - MAJU DEVI - WIFE, JOGA RAM - SON AND RACHNA KUMARI - DAUGHTER. SINCE A REASONABLE DOUBT EXISTED WITH REGARD TO DETAILS OF SURVIVING FAMILY MEMBERS AND AUTHENTICITY OF THE DOCUMENTS PRODUCED, THE RESPONDENTS AGAIN ASKED THE APPLICANT SHRI JOGA RAM TO PRODUCE AUTHENTIC AND APPROPRIATE DOCUMENTS/ PROOF. THE APPLICANT REMAINED UNABLE TO PROVE BEYOND REASONABLE DOUBT THAT HE IS THE ONLY FAMILY MEMBER TO CLAIM COMPASSIONATE APPOINTMENT. THEREFORE, THE RESPONDENTS ARE UNABLE TO PROCESS HIS REQUEST FOR

APPOINTMENT ON COMPASSIONATE GROUNDS. WITH ALL THESE ASSERTIONS, THE RESPONDENTS HAVE PRAYED FOR DISMISSAL OF THE OA.

3. THE APPLICANT, WHILE FILING REJOINDER TO REPLY, HAS FURTHER AVERRED THAT SHRI UMEDA RAM WAS BROTHER OF THE APPLICANT, WHO EXPIRED ON 1.5.2006 DURING THE LIFE TIME OF HIS FATHER. HIS SISTER SMT. BANTTI GOT MARRIED ON 7.3.2000 AND SHE WAS NOT DEPENDENT ON THE DECEASED GOVT. EMPLOYEE AT THE TIME OF HIS DEATH. SMT. MAJU DEVI (WIDOW OF THE DECEASED GOVT. EMPLOYEE), SHRI JOGA RAM, APPLICANT HEREIN (SON) AND MS. RACHNA KUMARI (DAUGHTER) ARE THE ONLY SURVIVING DEPENDENTS AND, THEREFORE, THE APPLICANT IS ENTITLED TO EMPLOYMENT ON COMPASSIONATE GROUNDS AS PER THE POLICY GUIDELINES.

4. HEARD THE LEARNED COUNSEL FOR THE PARTIES.

5. SHRI VIJAY MEHTA, LEARNED COUNSEL FOR THE APPLICANT CONTENDED THAT THE APPLICANT'S MOTHER IS AN ILLITERATE LADY AND WHILE PUTTING HER THUMB IMPRESSION OVER THE DOCUMENT ANN.R/2, SHE COULD NOT UNDERSTAND THE IMPLICATION OF THE SAID DOCUMENT PREPARED IN THE OFFICE OF RESPONDENTS AND SHE PUT THE THUMB IMPRESSION OVER THE SAME ON THEIR ASKING. THE SAID DOCUMENT WAS EVEN ATTESTED BY THE THEN COMMANDING OFFICER ON 22ND SEPTEMBER, 2014. LEARNED COUNSEL FURTHER ARGUED THAT THE RESPONDENTS HAVE NOT EVEN CONSIDERED THE APPLICANT'S CASE AS SHRI UMEDA RAM (APPLICANT'S BROTHER) EXPIRED ON 1.5.2006 AND SMT. BANTTI (APPLICANT'S SISTER) GOT MARRIED ON 7.3.2000 DURING THE LIFE TIME OF THE DECEASED GOVT. EMPLOYEE. THERE IS NOTHING WRONG IN THE CERTIFICATE GIVEN BY THE PANCHAYAT DISCLOSING NAMES OF SURVIVING MEMBERS, SMT. MAJU DEVI AS WIFE OF THE DECEASED, SHRI JOGA RAM AS SON AND MS. RACHNA KUMARI AS DAUGHTER. HE THUS SUBMITTED THAT INACTION ON THE PART OF THE RESPONDENTS PURSUANT TO THE APPLICANT'S APPLICATION FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS SMACKS THE VICE OF ARBITRARINESS AND, THEREFORE, A DIRECTION IS REQUIRED TO BE ISSUED TO CONSIDER HIS CASE IN THE LIGHT OF THE POLICY GUIDELINES.

6. PER CONTRA, LEARNED COUNSEL FOR THE RESPONDENTS ARGUED THAT THE DESCRIPTION WITH REGARD TO FAMILY MEMBERS SUBMITTED BY THE APPLICANT'S MOTHER AND THE DESCRIPTION GIVEN BY THE DECEASED GOVT. EMPLOYEE DURING HIS LIFE TIME DO NOT MATCH WITH EACH OTHER AND, THEREFORE, THE RESPONDENTS ARE WITHIN THEIR RIGHT TO DECLINE EMPLOYMENT TO THE APPLICANT ON COMPASSIONATE GROUNDS. HE, THUS PRAYED FOR DISMISSAL OF THE OA.

7. CONSIDERED THE RIVAL CONTENTIONS OF THE LEARNED COUNSEL FOR THE PARTIES AND PERUSED THE RECORD.

8. THE FACT THAT THE APPLICANT'S FATHER EXPIRED ON 10.7.2014 WHILE IN SERVICE OF THE RESPONDENTS IS NOT IN DISPUTE. IT IS ALSO NOT IN DISPUTE THAT THE APPLICANT'S MOTHER HAD SUBMITTED AN APPLICATION SEEKING EMPLOYMENT FOR APPLICANT ON

COMPASSIONATE GROUNDS. IT HAS ALSO COME UP ON RECORD THAT THE RESPONDENTS HAD STARTED PROCESSING THE APPLICANT'S CASE FOR EMPLOYMENT ON COMPASSIONATE GROUNDS. THE RESPONDENTS INSTEAD OF CONSIDERING THE STATUS OF THE FAMILY, SURVIVING DEPENDENT MEMBERS IN THE FAMILY AND OTHER ASPECTS AS PER POLICY GUIDELINES, OPTED TO KEEP THE MATTER PENDING SOLELY ON THE GROUND THAT PARTICULARS OF THE FAMILY MEMBERS SUPPLIED BY THE APPLICANT'S MOTHER DID NOT MATCH WITH THE PARTICULARS SUPPLIED BY THE DECEASED GOVT. EMPLOYEE DURING HIS LIFE TIME. THE APPLICANT'S FATHER HAD SUBMITTED DETAILS OF FAMILY MEMBERS DEPICTING NAMES OF SMT. MAJU DEVI-WIFE, BANTTI- DAUGHTER, UMEDA RAM- SON, JOGA RAM- SON AND RACHNA KUMARI-DAUGHTER. SHRI UMEDA RAM EXPIRED ON 1.5.2006 DURING HIS LIFE TIME. SMT. BANTTI DEVI GOT MARRIED ON 7.3.2000 AND SHE WAS NOT DEPENDENT OF THE DECEASED GOVT. EMPLOYEE AT THE TIME OF HIS DEATH. INSTEAD OF TAKING INTO CONSIDERATION ALL THESE FACTS, THE RESPONDENTS KEPT THE MATTER PENDING WITHOUT ANY PLAUSIBLE REASON. SINCE, NOW THERE ARE ONLY THREE DEPENDENT SURVIVING MEMBERS IN THE FAMILY OF THE DECEASED GOVT. EMPLOYEE, THEREFORE, THE RESPONDENTS ARE REQUIRED TO CONSIDER THE APPLICANT'S CASE AFTER TAKING INTO CONSIDERATION THE PREVALENT CIRCUMSTANCES IN THE FAMILY.

9. ACCORDINGLY, THE INSTANT OA IS DISPOSED OF WITH A DIRECTION TO THE RESPONDENTS TO CONSIDER THE APPLICANT'S CASE FOR GRANT OF EMPLOYMENT ON COMPASSIONATE GROUNDS IN ACCORDANCE WITH THE POLICY GUIDELINES AFTER VERIFYING THE FACT WITH REGARD TO STATUS OF SURVIVING DEPENDENT MEMBERS IN THE FAMILY OF THE DECEASED GOVT. EMPLOYEE, AND IF THE APPLICANT IS FOUND ELIGIBLE TO GET EMPLOYMENT ON COMPASSIONATE GROUNDS, THE SAME SHALL BE OFFERED TO HIM FORTHWITH. THE WHOLE EXERCISE SHALL BE UNDERTAKEN WITHIN A PERIOD OF 3 MONTHS FROM THE DATE OF RECEIPT OF A COPY OF THIS ORDER. IN THE FACTS AND CIRCUMSTANCES OF THE CASE, THE DELAY IN FILING THE OA IS ALSO CONDONED.

10. ORDERED ACCORDINGLY. NO ORDER AS TO COSTS.

(SURESH KUMAR

MONGA)

MEMBER

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