

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A No. 1374/2018
M.A No. 1538/2018**

Reserved on : 23.07.2019

Pronounced on : 31.07.2019

Hon'ble Ms. Aradhana Johri, Member (A)

Sh. Ompal (Aged about 54 years)
S/o. Late Shri Shish Pal
Ex-S.G. Beldar
R/o. H. No. 210, Gali No. 03,
D- Block, Sudama Puri,
Ghaziabad, U.P. ...Applicant

(By Advocate : Mr. Yogesh Kumar Mahur)

Versus

1. Chief Executive Officer,
Delhi Jal Board, GNCTD,
Varunalaya, Phase-II,
Karol Bagh, New Delhi-110 005.
2. The Director & Nodal Officer
Delhi Jal Board,
Varunalaya, Phase-II,
Karol Bagh, New Delhi-110 005.
3. Sr. AO (PD), Delhi Jal Board,
GNCTD, Varunalaya, Phase-II,
Karol Bagh, New Delhi-110 005. ...Respondents

(By Advocate : Mr. Raj Kumar Bhartiya)

O R D E R

The applicant's father worked as S.G. Beldar in Delhi Jal Board. He superannuated on 30.09.2004 and expired on 25.02.2012. The applicant's mother pre-deceased her husband and expired on 27.04.2007. The applicant was

100% visually disabled as per certificate of 12.03.2008. He represented for grant of family pension which was refused to him by the respondents. He approached this Tribunal which directed the respondents to decide his representation. His representation was rejected. This rejection is being challenged in this O.A.

2. It is the contention of the applicant that he was dependent on his father and he is 100% physically handicapped. Therefore, he should get the benefit of DoP&T O.M. No.1/33/2012-P&PW (E) dated 16.01.2013 (Annexure A/4) which exempts disabled sons and daughters from becoming ineligible for family pension from the date he or she gets married or re-married. He has claimed that he has no means of livelihood and therefore be sanctioned family pension. He has urged that the impugned order dated 01.12.2017 by which his request was finally turned down, be quashed and family pension be given to him from the date of death of his father.

3. The respondents have denied the claim of the applicant. They have also contended that the applicant was not born blind but became blind only in 2008 as per the certificate furnished by him. On his representation to the Public Grievance Commission, GNCTD, the inquiry was instituted in which it was found that he had two wives, the

first of whom has expired and he had four children two from each wife. They have further stated that he was living in his own house independent of his father even when his father was alive, though his younger brother actually lived with the father (the deceased employee). He also married off one daughter.

4. As per the respondents, keeping in mind the inquiry report, the Public Grievance Commission on 21.06.2017 felt there was no need for intervention by the Commission to extend pensionary benefits to the complainant and the matter was closed. It also directed that in case, on further verification any fact came forth, which needed attention of the Commission, it may be brought to its notice.

5. The respondents have also contended that the mandatory certificate which is to be given to the Treasury that the claimant had not started earning his or her livelihood, was not given by the applicant. They have contended that keeping all these points in mind, the applicant cannot be said to be dependent on his father and is not eligible for family pension even under the O.M. No.1/33/2012-P&PW (E) dated 16.01.2013.

6. Heard Mr. Yogesh Kumar Mahur, learned counsel for applicant and Mr. Raj Kumar Bhartiya, learned counsel for respondents.

7. Initially, the applicant was not eligible for family pension as per Rule 54 (6) Explanation -1. However, as per DoP&T O.M dated 16.01.2013, disabled sons or daughters do not become ineligible for family pension when they get married or re-married. But, the criteria of dependence on the deceased employee were not diluted at any point.

8. Now, seeing the circumstances of the case, the order dated 21.06.2017 of the Public Grievance Commission before whom the applicant was the complainant, states that the circumstances and details gathered by the officials of the Delhi Jal Board do not need any intervention from the Commission to extend the pensionary benefits. In the course of this report, it was clearly brought out that the applicant had two wives and four children who lived in his own house independent and without support from his father even when his father was alive, whereas another sibling lived with the father. He even got his daughter married off. These facts have not been denied by the applicant though he has claimed that he was supported by his father. It is further noted that the applicant did not

submit a certificate that he was not earning his livelihood. Added to this fact that he has not claimed to be blind from birth but the blindness certificate is of 2008 when he was 40 years of age, as of now that would make him 51 years of age.

9. The Hon'ble Apex Court has consistently held that compassionate appointment is not an alternate route to employment and should not be done in general conditions but in exceptional circumstances to relieve the economic distress by sudden demise in harness of government employee.

10. It has been held in **Umesh Kumar Nagpal Vs. State of Haryana & Ors.** JT 1994 (3) S.C. 525, that death of an employee in harness does not entitle the dependents to a job and financial condition of the family must be taken into account. The Hon'ble Court made the following observations :-

“For these very reasons, the compassionate appointment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole bread winner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

11. Therefore, in the conspectus of the things, I am of the view that the applicant was supporting his family, living

in his own house without support from his father even during his father's lifetime. Therefore, he cannot be said to be dependent upon his father and therefore not eligible for grant of family pension.

12. In the light of the above, this O.A is devoid of any merit and is dismissed. No orders as to costs.

(Aradhana Johri)
Member (A)

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