

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This 11th day of December 2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Original Application No. 330/01094/2016

Sudhanshu Srivastava, S/o Late Rakesh Kumar Srivastava, R/o 25
Chandra Deepa Sadar Sohta Ganeshganj Mahuarua Mirzapur Chunar
Mirzapur

.....Applicant

By Advocate: Shri Vidya Bhushan Srivastava

Versus

1. Development Commissioner (Handicrafts), Ministry of Textiles, Govt. of India, Delhi.
2. Indian Institute of Carpet Technology through its Director Chauri Road, Bhadohi 221401.
3. Administrative cum Security Officer, Indian Institute of Carpet Technology, Chori Road Sant Ravidas Nagar Bhadohi.
4. Union of India through Secretary Ministry of Textiles, New Delhi Udyog Bhawan, New Delhi.

.....Respondents

By Advocate: Shri Udai Chandani/Shri L.P Tiwari

ORDER

1. Case of applicant Sudhanshu Srivastava is that on the death of his father Rakesh Srivastava on 28.03.2010 while working in the respondents-department, applicant filed applications (Annexure No. 3) dated 12.04.2010, 4.5.2010, 28.05.2010, 25.06.2010 and 12.07.2010 for appointment on compassionate grounds before respondent No. 1. It is the further case of applicant that from the year 2011 to 2016 applicant had given representations, the last

representation being dated 16.04.2016. That the representation of the applicant was rejected by respondents No. 1 vide order dated 30.04.2016 (Annexure No.5) on the ground of delay without taking into consideration the representations given by the applicant since 2010 for compassionate appointment. It is averred in the O.A. that his mother expired on 05.07.2010.

2. It is a case of applicant that the sole ground for rejecting his application for compassionate appointment is the delay in filing the application which has been filed after more than six years on 18.04.2016 but is against the averment made in paragraph of 16 of the impugned order wherein the respondents have admitted the receipt of application since July 2010. It is further case of applicant that in paragraph 15 of the order impugned, it has been mentioned that the applicant has been working some where else, in this context it is humbly submitted that the applicant for his livelihood has worked for meager amount on day –to-day basis, which cannot be a hurdle for providing compassionate appointment in place of his father, and as such the order impugned dated 30.04.2016 is liable to be quashed.
3. In the counter affidavit, it has been averred by the respondents that several vague applications were filed by the applicant from July 2010 to December 2010 in which there was no specific plea for the appointment on compassionate ground but it was only mentioned that all service dues of his father be disbursed and if required, some work may be provided to the applicant but there was no application as required under law requesting the

respondents to consider the case of applicant for compassionate appointment.

4. It is also averred in the counter affidavit that the applicant preferred an application dated 28.12.2012 (Annexure CA-2) before the Man Power Agency namely Prakashpunj Manav Kalyan Samiti Bhadohi for recruitment and prior to that from 15.06.2011 to 3.11.2012 applicant was working in Ashwani Handicraft Pvt. Ltd., Bhadohi. Furthermore since 01.01.2013 applicant is rendering his service through the Man Power Agency in the Institute and the said facts is quite evident from the bare perusal of the Employee's Provident Fund Organization, Varanasi Electronic Challan Cum Return (ECR) and the monthly contribution details issued by the employer, in which applicant's name is significant and after due verification it came to light that applicant is rendering services without any break since 2013 till today with the same manpower agency as mentioned above. Accordingly, the O.A. being meritless deserves to be dismissed.
5. In the rejoinder affidavit, while disputing the case set up by the respondents, applicant has averred that having some private and temporary job, cannot be treated as hindrance in the compassionate appointment.
6. The relevant portion of impugned order dated 30.04.2016 reads as under :-

"14 That it is noteworthy to mention here that according to the records of the institute several vague applications were preferred by you since July 2010 till December 2010 in which there was no specific plea for the appointment on compassionate ground but only it has been mentioned that all the service dues if not paid but the institute

related to your father may be released in his favour and if required some work may be provided to you or your mother but there was no application as required under law requesting the institute for consideration of your appointment on compassionate ground till 2015.

15. That you preferred an application on 28.12.2012 before the manpower agency namely Prakashpunj Manav Kalyan Samiti, Bhadohi for recruitment and prior to that from 15.06.2011 to 3.11.2012 you were working in Ashwani Handicraft Pvt. Ltd. Bhadohi. Furthermore since 1.1.2013 you are rendering your service through the Man Power Agency in the Institute and the said fact is quite evident from the bare perusal of the Employees' Provident Fund Organization, Varanasi Electronic Challan cum Return (ECR) and the Monthly Contribution Details issued by the employer, in which your name is significant and after due verification it came to light that you are rendering services without any break since 2013 till today with the same manpower agency as mentioned above.
 16. That you have suppressed material facts and has not come with clean hands and furthermore for the very first time 18.04.2016 that is after a period of more than 6 years you have preferred an application for considering you on compassionate ground, even though as per the service rule you have never applied according to the procedure on compassionate appointment till today.
 17. That according to various decisions passed by the Hon'ble High Court and Hon'ble Apex Court it has been held that the appointment on compassionate ground is not a matter of right but it has to be seen the necessary requirement from all the four corners before providing the benefits of compassionate appointment but from the bare perusal of the findings as mentioned here in above it is quite evident that you are not entitled for the benefit of compassionate appointment and hence your application dated 18.04.2016 is declined and is not worth for consideration".
7. I have heard and considered the arguments of learned counsel for the parties and gone through the pleadings.
 8. Respondents have taken the plea that the applicant in his application (Annexure A-4) never sought the appointment on

compassionate ground and therefore, his prayer that some work may be provided to the applicant did not fulfill the requirement of law under which applicant was required to file an application requesting the respondents for consideration of applicant's appointment on compassionate ground. This contention of the respondents is to be rejected in view of the specific prayer made by the applicant in his application (Annexure 4) received by the respondents on 4.5.2010. This is clear from the language of Annexure 4 wherein it has been averred that:-

"I o k ea

lk'kkI fud , oa l g {kk vf/kdkjh

Hkkjrh; dkyhu i 2kk6xfd l l Fkku

PKGh jkM] Hknkgh mRrj i nsk

Ekgkn;

dIk; k ejs i kFkuk i = fnukad 12-04-2010 dh vkj viuk /; ku vkd"V djus dh dIk dja

mijkDr i kFkuk i = ea esus fuonu fd;k Fkk fd ejs fir k Lo- Jh jkdsk dek j JhokLro i e Jh i eplnz yky fuokl h [kefj; k ftyk Hknkgh ds eR; qdsIk'pkr ejs rFkk ejh ekM Jherh eukjek noh ds Hkj.k i ksk.k dk dkbZ l gkj k ugh gA vr%e s; k ejh ekM dks erd vkfJr ds : lk ea vius l l Fkku ea ge nksus ds ; k; rk vuq kj dkbZ dk; l nus dh dIk dja l kFk gh l kFk ejs fir k ds i {k ea tks Hkh /ku vkids l l Fkku ea vo'ksk gks ; Fkk 'kd?k fnyokus dh dIk dja fdUrq [kn ds l kFk l fpr djuk iM+jgk gSfd vHkh rd ejs i kFkuk ij vkt rd dkbZ dk; bkg h ugh dh xbA

vr%vki l s fouez fuonu gSfd di; k ejs n; uh; voLFkk ij /; ku nrs gq s rRdky dk; bkg h djus dh dIk dj} ft l l s ge vl gk; i kFkhZ dk thou ; ki u gks l dA

vki dh egku dIk gkxhA

fnukad

i kFkhZ

g0

I qkMkq JhokLro

Lo0 Jh jkdsk dek j JhokLro

[kefj; k ftyk Hknkgh"

9. The language of Annexure A-4 is very clear that he is seeking compassionate appointment on the ground of penury condition. Therefore, this contention of respondents is rejected.
10. However, perusal of the impugned order dated 30.04.2016 shows that the respondents rejected his prayer for appointment on compassionate ground for the reasons mentioned in the impugned order itself that *"That you preferred an application on 28.12.2012 before the manpower agency namely Prakashpunj Manav Kalyan Samiti, Bhadohi for recruitment and prior to that from 15.06.2011 to 3.11.2012 you were working in Ashwani Handicraft Pvt. Ltd. Bhadohi. Furthermore since 1.1.2013 you are rendering your service through the Man Power Agency in the Institute and the said fact is quite evident from the bare perusal of the Employees' Provident Fund Organization, Varanasi Electronic Challan cum Return (ECR) and the Monthly Contribution Details issued b the employer, in which your name is significant and after due verification it came to light that you are rendering services without any break since 2013 till today with the same manpower agency as mentioned above"*.
11. Therefore, the respondents rejected applicant's prayer for compassionate appointment on the ground that he did not fulfill the necessary requirements for such appointment.
12. Looking to the stand of the respondents, it is clear that they rejected the prayer of applicant for compassionate appointment on the ground that he was earning his livelihood and not living in penury or indigent condition. In view of the facts and

circumstances of the case as discussed above, no case is made out for quashing the impugned order dated 30.04.2016 and consequently no direction can be issued to provide compassionate appointment to the applicant. The O.A. being meritless, is dismissed. No order as to costs.

(RAKESH SAGAR JAIN)

Member (J)

Manish/-