

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/01379/2017

Reserved on : 1.1.2020
Date of order: 10.01.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Samir Kumar Das,
Son of Late Gopal Chandra Das,
Residing at Village – Rajibpur,
Post Office – Uttar Durgapur,
Police Station – Shyampur,
District – Howrah,
Pin – 711312.

..... Applicant.

Versus

1. Union of India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
2. The Chairman,
Central Excise Board,
North Block,
New Delhi – 110 001.
3. The Commissioner of Central Excise Customs House,
M.S. Building,
15/1 Stand Road,
Kolkata – 700 001.
4. The Assistant Commissioner (P & E),
Central Excise Kolkata – I,
Commissionerate,
Kendriya Utpad Sulkya Bhawan,
180, Shantipally,
1st Floor, E.M. Bypass,
Kolkata – 700107.
5. The Administrative Officer,
Central Excise Chandannagar – I Division,
Fatakgorah Station Road,
Borai Chanditala,
Chandannagar,
Hooghly – 712 136.

..... Respondents.



For the Applicant : Mr. K. Hossain, Counsel

For the Respondents : Mr. T.K. Chatterjee, Counsel

O R D E R

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(a) For an order/direction upon the respondent authority to give appointment to the applicant on compassionate ground commensurate to his qualification after setting aside the order dated 28/04/2016 communicated to the applicant vide memo C. No. 11(31) 13-ET/Comp./Kol.-I/2015/9948-50B dated 28/04/2016 being Annexure A-4 to the application.

(b) For an order/direction upon the respondents to issue appointment letter in favour of the applicant.

(c) And granting the applicant all other consequential reliefs in connection therewith."

2. Heard both Id. Counsel, examined pleadings and documents on record.

3. Id. Counsel for the applicant would submit that the applicant's father, a Havaldar with the respondent authorities, died on 25.12.2013 while in service, leaving behind, as dependents, his widow, his only son (applicant) and one unmarried daughter. That, after the demise of his father, his widow mother, with no objection from other members of the family, preferred an application dated 20.1.2014 praying for compassionate appointment in favour of her son, the applicant herein, and, after reminders thereto, the respondent authorities, vide their letter dated 28.4.2016, informed the applicant that his prayer for compassionate appointment has been rejected.

4. According to the applicant, the respondent authorities have failed to decide judiciously and legally in his favour as because they have not considered the financial condition of the applicant appropriately. The fact that his father, the deceased employee was being treated in various hospitals prior to his demise on account of which a large amount of

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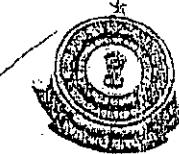
money was spent thereon, and, that, his two sisters had to be married with reasonable expenses were ignored. The applicant's situation being genuinely penurious, the respondent authorities have erred in not granting him the benefits of compassionate appointment in the background of his dire pecuniary circumstances.

5. The respondent authorities would counter the claim of the applicant by arguing as follows:-

- (i) Late Gopal Chandra Das, Ex-Havalder, Kol-IV Commissionerate died on 25.12.2013 at the age of 57 years, and his family received an amount of Rs. 13,16,459/- as admissible amount from the department. His widow is in receipt of pension amounting to Rs. 12,130/- + D.A. The family of the deceased consists of three dependent members including the applicant, his widowed mother and unmarried sister.
- (ii) The DSC, after having examined the records, was of the opinion that the family is not in penury.
- (iii) Moreover, the applicant, being a young Post Graduate is capable of obtaining an employment on his own merit instead of relying on compassionate appointment.

6. The respondent authorities thereafter rejected the prayer of the applicant for compassionate appointment vide their communication dated 28.4.2016 (Annexure A-4 to the O.A.) by stating as follows:-

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GOVERNMENT OF INDIA
 OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE : KOLKATA-I
 COMMISSIONERATE
KENDRIYA UTPAD SHULKYA BHAWAN : 1ST FLOOR: 180, SHANTIPALLY : E.M. BYPASS KOLKATA - 700
 107

C. No. : II (31)13-ET/Comp/Kol-I/ 2015 / 0948 - ST B Dated: 28 APR 2016

To

Samir Kumar Das
 S/o Late Gopal Chandra Das (Ex-Havalder)
 Vill-Rajibpur, P.O. Uttar Durgapur, P.S. Shyampur,
 Dist- Howrah, Pin- 711312

Sub: Compassionate Appointment in the Grade of Tax Assistant-Regd.

In connection with the above, the case has been placed before the Departmental Screening Committee held on 18th December, 2015.

The Committee has examined the records and are of the opinion that the family is not in penury. Moreover, the applicant is a Post Graduate and young enough to get an employment on his own merit. The case does not merit consideration for appointment on compassionate grounds and is rejected.

(Ramesh Shivaram) 26
 Assistant Commissioner (P&E)
 Central Excise Kol-I Comm'te

Copy forwarded for information and necessary action to:

- 1) The Additional/Joint Commissioner (P&V), C. Ex. Kol-IV Comm'te.
- 2) Concerned Case file.

(Ramesh Shivaram) 26
 Assistant Commissioner (P&E)

7. The applicant in his rejoinder has alleged that the respondent authorities have failed to apply their mind and that irrelevant and contradictory factors such as education qualification, financial condition and percentage of vacancy have been introduced to arbitrarily reject his claim for compassionate appointment. Hence, as prayed for by Ld. Counsel for the applicant, we would accord liberty to the applicant to prefer a comprehensive representation within a period of 4 weeks from

h.s.



the date of receipt of a copy of this order, against the rejection of the respondent authorities (as at Annexure A-4 to the O.A.) to enable him to counter the respondent authority's findings on his penurious condition and also the fact as to why being a young Post Graduate does not necessarily debar him from staking his claim to compassionate appointment, citing relevant Rules and judicial decisions, if any, in his support.

In the event such representation is preferred, the concerned respondent authority shall re-examine, in accordance with law, his prayer in the light of grounds adduced therein and convey the decision of the appropriate authority in the form of a speaking and reasoned order to the applicant within a further period of 12 weeks thereafter.

8. With these directions, the O.A. is disposed of. No costs.



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP