

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1227 of 2001

New Delhi, this the 1st day of March, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Shri Manish Kumar Jagpal
S/o Late Shri Gulshan Kumar
R/o G-629, Srinivaspuri,
New Delhi.

-APPLICANTS

(By Advocate: Dr. M.P. Raju)

Versus

1. Union of India
through its Secretary,
Ministry of Information and Broadcasting,
New Delhi.
2. Director,
Photo Division,
Ministry of Information and Broadcasting,
Soochana Bhawan,
CGO Complex,
Lodhi Road,
New Delhi-110 003.

-RESPONDENTS

(By Advocate: Shri R.N. Singh, proxy counsel for Shri
R.V. Sinha, Counsel)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant has filed this OA as he is aggrieved of an illegal, arbitrary and mala fide action of the respondents when he was refused to mark his presence and his service was terminated on 3.7.2000 vide an oral order when he was simply asked not to mark his presence and go back to his residence.

2. The facts in brief, as alleged by the applicant are, that he was given an appointment on the grounds of compassionate appointment since his father had died in harness while he was working with the respondents. The appointment was offered vide Annexure VI

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The case of the applicant is that the terms and conditions, as contained in Annexure VI also contained a clause that the service of the applicant can be terminated any time by a month's notice (30 days notice) given by either side without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to his/her of the sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof. In pursuance of this appointment offer the applicant joined the department and also worked for some days when on 3.7.2000 he was asked not to mark his attendance and go back to his home without reverting to the terms and conditions, as contained in the appointment offer.

3. In the grounds to challenge the same the applicant has submitted that this is an arbitrary order. The applicant also claims that his mother and his whole family including his younger brother and sister are at the verge of starvation death as they had lost the only bread winner of the family, i.e. the father and after the death of their father, the applicant was given compassionate appointment to look after the entire family and now it is impossible for the whole family to live at all.

4. The respondents contested the OA. The respondents pleaded that at the time of death of Gulshan Kumar, the applicant was under age and he could not be

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given an appointment. However, on attaining the age of 18 years the applicant's mother had made request and thereafter his case was processed, but in the meanwhile the Government of India had issued the austerity measures and imposed a ban for filling up vacant post vide their order dated 17.8.99. Even otherwise the 5% quota meant for compassionate appointment had already been utilised and it was realised that there were not sufficient number of vacancies available to appoint the applicant so his bio-data was also circulated to all the Ministries/Departments on various Media Offices of the Ministry of I&B but there was no positive response. However, the mother of the applicant had been insisting upon the respondents to appoint the applicant and in those circumstances offer of appointment was issued by the Photo Division for appointing the applicant on 7.6.2000.

5. It was further alleged that the Director had issued letter under the presumption that the Ministry will approve, but the Ministry had turned down the proposal for appointment and in the meantime in cases bearing No. OA Nos. 1079/95 and 308/99 in the cases of certain casual labourers who had filed the said OAs, directions were given to grant them temporary status by the orders of the CAT, Principal Bench so they were also to be accommodated, as such there was no vacancy and it was in these circumstances that the appointment given to the applicant had to be cancelled.

6. I have heard the learned counsel for the parties and gone through the record.

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7. It is an admitted case of the respondents that the applicant's father was working with the respondents and he died in harness. The fact that the application of the applicant for the purpose of compassionate appointment was processed by the department and was suitably considered was not disputed because that is why when finding that no vacancy was available in the department, the department had also circulated the bio-data of the applicant in various other units of Ministry of Information and Broadcasting so that the applicant may be accommodated in some of the Units.

8. Somehow the applicant was also given appointment letter vide Annexure VI on the basis of which he resumed duty also, which also contained Clause (6) that a notice of termination was required to be served within a period of 30 days by either side. It is also admitted that no notice was given to the applicant nor any amount in lieu of that was given to the applicant. Be that as it may, the fact remains that the applicant who was found to be eligible for appointment on compassionate grounds and after having been appointed, his appointment has been withdrawn on some technical grounds, so in these circumstances I find that the applicant was not at fault. He was eligible for the appointment on compassionate grounds but his appointment had been cancelled either because of some ban having been imposed or because the 5% quota meant for compassionate appointment had been utilised. There had been some irregularity while issuing appointment letter and the same had been withdrawn so in these circumstances I find

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that the termination of the services of the applicant should not have been resorted to and the applicant should have been adjusted in some vacancy which may become available with the department. Hence, I am of the considered opinion that in view of the present facts and circumstances, the applicant who had been found to be eligible in all respects, be given a job and who had already been once granted a job, may be accommodated in any of the vacancies which may become available with the respondents at first instance.

9. In view of the above, OA is allowed with the direction to the respondents that whenever any vacancy becomes available, the applicant be appointed in the first available vacancy. This may be done preferably within a period of 3 months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

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