

Central Administrative Tribunal
Principal Bench

(14)

O.A.No.2903/2001

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 9th day of December, 2002

Smt. Raj Kumari
wife of Late Shri Daya Nand
r/o H. No.RZ-245B, Brahampuri
Pankha Road
New Delhi. Applicant

(By Advocate: None)

Vs.

1. Union of India, through
The Secretary
Ministry of Defence
New Delhi.
2. Director of Ordnance Services(OSUG)
MGO Branch, Army Hd. Quarters
New Delhi.
3. Commandant
Central Vehicles Depot
Delhi Cantt. - 110 010. Respondents

(By Advocate: Mrs. Promila Safaya)

O R D E R (Oral)

By Shri Shanker Raju, M(J):

None present for the applicant even on second call. Heard the learned counsel for respondents.

2. On the last date of hearing, after hearing the arguments of the learned counsel for applicant as well as the respondents' counsel, respondents were directed to produce a separate record of all the candidates, for proper adjudication of the case, who have been considered thrice and finally rejected will be kept by Units/Depts. Accordingly she has produced the record and I have perused the same and returned the same to the counsel.

3. In this OA applicant, who is a widow of the deceased Government servant, who died in harness on 24.2.1998, has impugned the respondents' order dated 11.4.2001 wherein his request for compassionate appointment has been rejected on the ground that having considered her case thrice and five years old cases are not to be considered and there were also more deserving cases as well as limited number of vacancies.

(15)

4. Applicant, in this OA, alleged mala fides against the respondents and stated that in view of their own policy laid down for compassionate appointment and more particularly in para 9 where in it has been stated that action for character verification and medical examination of the selected applicants, will be initiated only after receipt of formal sanction for employment, from the Headquarters.

5. It is stated that the applicant stood at S1. No.1 of the list and having been an indigent condition and extreme distress she deserves compassionate appointment whereas others, who are less deserving, have been accorded appointment making the action of the respondents is arbitrary, discriminatory and violation of Articles 14 and 16 of the Constitution of India.

6. On the other hand, respondents denied the contentions and the learned counsel for respondents stated that as per the Scheme of compassionate appointment, case of the applicant has been considered thrice. It is also contended that five years old

cases are not to be considered. Case of the applicant has been considered as per the Scheme and as required by letter dated 26.6.2000 dealing with the employment in relaxation to normal rules every candidate is to undergo a medical examination and has to produce medical certificate in terms of Rule 49 of CSR and accordingly medical certificate would not confer upon the applicant a right to be appointed or would not be construed as ~~in~~ the selection of the applicant.

7. Learned counsel relying upon several pronouncements of the Apex Court states that compassionate appointment cannot be claimed as a matter of right and is to be accorded in deserving cases when the family is indigent and the case is to be found within the parameters of the policy.

8. From the records, I find that all the three times her case has been considered and found unfit as per the guide-lines laid down her case could not be materialised and more deserving candidates have been appointed on compassionate grounds.

9. I have carefully considered the rival contentions of the parties and perused the material on record.

10. As per the Apex Court's decisions, compassionate appointment cannot be given as a matter of right, the right is only of consideration.

(P)

11. I have seen material on record and find that on all the three chances, the case of the applicant was meticulously considered in the light of the provisions contained in the Scheme for compassionate appointment. As there were more deserving cases and limited quota of vacancies for compassionate appointment, the case of the applicant has been considered and not found as per the rules to be appointed ^{on} compassionate ~~ground~~ has been rightly rejected.

12. The contention of the applicant that by medical examination the applicant is deemed to be selected by the Headquarters and right is vested on her to be appointed on compassionate basis, cannot be countenanced in the light of the Circular dated 26.6.2000 where the conditions precedent for consideration for compassionate appointment is production of certificate under Article 49 of CSR, for that purpose the applicant was subjected to medical examination, I do not find that this medical examination as part of the process of selection.

The OA is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

/rao/