

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1061/96
T.A. No.

199

DATE OF DECISION 4-10-1996

Shri Jai Kumar Petitioner

Shri M.K. Gupta Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri K.R. Sachdeva Advocate for the Respondent

CORAM

The Hon'ble Mrs Lakshmi Swaminathan, Member(J)

The Hon'ble Mr. _____

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

(7)

Central Administrative Tribunal
Principal Bench

O.A. No. 1061/96

New Delhi this the 4th day of October, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Jai Kumar,
S/o Late Shri Raja Ram,
R/o Vill-Mubarakpur (near Tapri),
PO-Saharanpur (UP)-247001.

..Applicant.

By Advocate Shri M.K. Gupta.

Versus

1. Union of India, through
The Secretary,
Ministry of Defence,
South Block,
New Delhi-110001.
2. The Major General,
Army Ordnance Corps,
Western Command HQ.,
Chandimandir.
3. The Commandant,
Ordnance Depot,
Shakurbasti,
Delhi-110056.

..Respondents.

By Advocate Shri K.R. Sachdeva.

ORDER (Oral)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the letter dated 14.11.1995 issued by Respondent 2 in which his request for employment on compassionate grounds has not been acceded to, on the grounds that there were more deserving cases than his, who had been considered for such appointment. In this letter, it was further mentioned that the applicant's case had already been rejected three times previously on the same request.

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2. The brief facts of the case are that the applicant's father Shri Raja Ram, who was working as Manager with Respondent 3, had died on 23.1.1987 in an accident. The applicant being the eldest son had applied for compassionate appointment as Mazdoor on 23.2.1987. From the pleadings, it is seen that the case of the applicant had been sent to the competent authority on three occasions, namely, 23.7.1987, 30.1.1992, 26.12.1994. The consideration of the applicant's case on these occasions had been done in accordance with the extant rules on the subject regarding appointment on compassionate grounds.

3. The main grievance of the applicant in this case is that while the Respondent /1 had taken a decision on 2.11.1993 as a one time relaxation to the proposal of making compassionate appointments against unutilised vacancies reserved for ex-servicemen and physically handicapped persons, his case had not been considered in terms of this decision. Shri M.K. Gupta, learned counsel for the applicant, submits that in accordance with the letter dated 23.3.1994 which reproduces the letter from Respondent 2 dated 18.3.1994, the field units were requested to provide data pertaining to last 10 years as per Appendix 'A' to enable them to take up the matter with Respondent 1 and secure maximum release of vacancies in favour

JS.

of deserving applicants in this category. A proforma had also been attached to this letter which has been submitted by the learned counsel for the respondents, and is taken on record, in which from clauses (a)-(f), ^{it is seen that} the latter was required to provide ^{details of} cases of requests received for compassionate appointments from 1.7.1987 to 31.12.1987, and from clauses (g)-(l) cases received from 1.1.1988 to 30.6.1992. The main contention of the learned counsel for the applicant is that while the data was required to be given for the last 10 years, the respondents have arbitrarily chosen a cut off date of 1.1.1988 in respect of the exercise they had undertaken in pursuance of the one time relaxation dated 2.11.1993. ¹² ~~A copy of this letter has been taken on record.~~ He relies on the judgement of the Supreme Court in D.S. Nakara & Ors. Vs. Union of India (1983(1) SCC 305). He submits that any such cut of date is arbitrary.

4. The learned counsel for the respondents, on the other hand, has submitted that even during the time when the one time relaxation was given, as decided on 2.11.1993, the applicant has been considered afresh for the third time in accordance with the extant rules for compassionate appointment in December, 1994. He has relied on Haryana State Electricity Board Vs. Naresh Tanwar and Anr. (SCC 1996(L&S) 816), Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambedkar & Anr.

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Manoj Kumar Vs. Union of India (SLJ 1996(1) 639

(Patna), M/s Shabi Construction Vs. City and Industrial Development Corporation and anr., JT 1995 SC 618,

Umesh Kumar Nagpal Vs. State of Haryana, 1994(4) SCC

138, Jagdish Prasad Vs. State of Bihar, 1996(1) SCC

301. The learned counsel submits that it is settled position that the applicant has no right for appointment on the ground of compassion as this is not a mode of recruitment. Apart from this, he has submitted that since the applicant's case has already been duly considered by the competent authority on three previous occasions and had not been found fit as compared to more deserving cases in accordance with the relevant rules, there is no justification for a further consideration on the basis of other relaxed ^{now adopted on 2.11.1993.} ~~rules of~~

5. Following the judgements of the Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana, LIC of India Vs. Mrs Asha Ramchandra Ambedkar & Anr and Haryana State Electricity Board Vs. Naresh Tanwar and Anr. (Supra), which are judgements dealing with similar cases of compassionate appointments and the facts in this case, the relief prayed for in this application to direct the respondents to further consider the applicant for appointment as Mazdoor cannot be granted. The judgement of the Supreme Court in Nakara's case (supra) relied upon by the applicant is totally on a different subject matter and in the light of the other judgements of the Hon'ble Supreme dealing with this very question of compassionate appointment, the judgement in Nakara's case cannot assist the applicant. It is settled position that the compassionate appointment is not another mode of recruitment. It

has also been held by the Supreme Court (See Umesh Kumar Nagpal's case and Naresh Tanwar's case (supra) that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problems being ^{faced by} ~~suffered~~ by the members of the family of the deceased employee. The very object of appointment of ^a dependent of ^{the} deceased employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for ^{long number of} ~~for~~ years. In the present case, there is no doubt that the applicant has been duly considered by the respondents in accordance with the extant rules on more than one occasion for appointment on compassionate grounds right from 1987, i.e. soon after the death of the father. Therefore, now in 1996, in the light of the aforesaid judgements of the Supreme Court, the prayer for a further consideration on the same grounds does not appear to be warranted. The only point stressed by the learned counsel for the applicant is that the applicant had not been considered in terms of the one time relaxation given by the respondents in their decision dated 2.11.1993. There is no merit in this submission as admittedly, the respondents have already considered the applicant in accordance with the normal rules dated 8.6.1989 on which the applicant has absolutely no ^{grievance} ~~complaints~~. It is also relevant to note that after the decision of 2.11.1993, the applicant

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had again been considered a third time for compassionate appointment in 1994, when again it was found that his case was not ^{13.} ~~been considered~~ fit in comparison with more deserving cases.

6. In the above facts and circumstances of the case, I find no justifiable grounds to interfere in the matter. The application is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'