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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.1636 of 2000

New Delhi, this 5th day of February 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER(A)

Joginder Sharma
S/o Late Shri Umed Singh
R/o B/19 N.E.P.Z.
Dist. Gautam Budh Nagar
Noida-201305

... Applicant

(By Advocate: Ms Raman Oberoi)

versus

1. Union of India,
Through Secretary
Ministry of Commerce and Industries
Department of Commerce
Udyog Bhavan
New Delhi.
2. Union of India,
Through Secretary
Department of Personnel & Training
(D.O.P.T.)
New Delhi.
3. Development Commissioner
Noida Export Promotion Zone (NEPZ)
Ministry of Commerce and Industries
Department of Commerce
NOIDA, Dadri Road, Phase-II
District Gautam Budh Nagar
NOIDA-201305 (U.P.) ... Respondents

(By Advocate: Shri S.K. Gupta (not present)

ORDER(Oral)

By Shri S.A.T. Rizvi, M(A)

This is a case of compassionate appointment filed by Shri Joginder Sharma, son of the deceased employee Shri Umed Singh. Shri Umed Singh died on 20.2.1999 while still in service. The applicant who is a son of the deceased employee, is, therefore, entitled to appointment in Group 'C' or Group 'D' vacancies subject to fulfilment of the conditions prescribed by the government for compassionate appointments. The

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applicant's father was working in a small office of the Development Commissioner, NEPZ under the Ministry of Commerce and Industries in which the number of posts of Group 'C' & 'D' categories are limited and accordingly few vacancies arise from year to year. For the last three years, only three vacancies have arisen in the rank of Group 'C' & 'D' employees in each of the years. The respondents have calculated the number of vacancies that could be utilized for appointment on compassionate grounds in accordance with the office memo dated 28.12.1999. The same, I find, provides for reservation of just 5% of the vacancies in a year to be utilized for the aforesaid purpose. This works out to 0.15% in each of the three years gone by. This being so, the respondents could never be in a position to give appointments to anyone on compassionate grounds. Thus the facility provided to the government servants is rendered illusory.

2. Realising the limitation outlined in the previous paragraph, the respondents have themselves submitted that if vacancies are not available in the parent department/Ministry, the possibility of securing employment for the applicant elsewhere in the other departments/Ministries could be explored. That too has been done without any success so far.

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3. The learned counsel for the applicant has drawn my attention to the note drawn up by the Development Commissioner for the consideration of the Department of Personnel and Training (DOPT). The same is dated 29.12.1999. From the notings available on this piece of paper, I find that there is keenness to help the applicant in all possible ways. The Development Commissioner has gone to the extent of mentioning in his note that required number of posts in the rank of LDC/Security Attendant had since become available and it would be possible for the respondents to accommodate against the aforesaid posts not only the applicant but also another whose request for similar appointment is currently pending. According to the Development Commissioner, all that is needed is a relaxation of the aforesaid ceiling of 5% to enable him to proceed further and appoint the applicant as also the other person. The DOPT have, for reasons not clarified anywhere in the respondents' reply, not found it possible to relax the aforesaid limit of 5%.

4. I am inclined to think that this case should be about the fittest of cases to be considered favourably and expeditiously by the respondents having regard to the fact that vacancies existed against which the applicant could be appointed. The learned counsel for the applicant tells me that Secretary in the Ministry of Commerce and Industries is duly empowered to consider granting the aforesaid relaxation. I am

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sure Secretaries have been so empowered only in order to ensure that hardship cases, such as the present case, are dealt with expeditiously, fairly and justly. The present OA does, in the peculiar circumstances of the case, call for positive interference at the level of Secretary.

5. On a careful consideration of the facts and circumstances of the case and relying on the Development Commissioner's note dated 29.12.1999 in which the existence of adequate number of vacancies in the rank of LDC/Security Attendant has been indicated, I find it just and proper to direct the respondent No.1 to consider relaxing the aforesaid limit of 5% and to consider appointing the applicant against one of the posts available in the office of the Development Commissioner subject to the applicant fulfilling the required qualifications etc. This he will do as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order.

6. The OA is disposed of in the aforesaid terms. No costs.



(S.A.T. Rizvi)
Member(A)