

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Govindan S. Tampi, Member(Admnv.)
Hon'ble Shri Shanker Raju, Member (Judicial)

C.P.No.392/2001 in O.A.No.1395/2000

New Delhi, this the 11th day of October, 2001

Shri Kamal Kishore Saini
s/o Late Jagdish Kumar Saini
r/o 41, Bhagwan Nagar
P.O. Jangpura
New Delhi - 110 014.

... Petitioner

(By Advocate: Shri K.N.Bahuguna)

Vs.

1. Shri K.Kaushal Ram
Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi - 110 001.
 2. Shri Krishan Kumar
Director Geeneral of Works
CPWD, Nirman Bhawan
New Delhi - 110 001.
 3. Shri Satpal Banwait
Chief Engineer, PWD Zone
MSO Building, 7th Floor
PHQ, Indraprastha Estate
New Delhi - 110 002.
 4. Shri A.K.Saraf
Chief Engineer (Electrical - I)
CPWD, Vidyut Bhawan, Connaught Place
New Delhi - 110 001.
 5. Shri Sudhir Kumar
Superintending Engineer - Electrical
Coordination Electrical Circle
CPWD, I.P.Bhawan, 4th Floor
I.P.Estate
New Delhi - 110 002.
- .. Respondents

(By Advocate: Shri D.S.Mahendru)

O R D E R(Oral)

By Shanker Raju, Member (J):

Heard both the parties.

2. The applicant is aggrieved for non-compliance of the directions issued by this Tribunal vide order dated 23.2.2001 in OA No.1395/2000, wherein the following directions have been issued:

"4. After going through the records, I feel that this OA can be disposed of by directing the respondent to consider the claim of the person for compassionate appointment on the post of Lift Operator who had completed all the formalities earlier in time. Even otherwise the private respondent was earlier given an offer for another Group 'D' post which he had declined and applied for being considered for the post of Lift Operator lateron.

5. Hence, this OA is disposed of with the direction that the candidate who had earlier in time completed all the formalities of trade test etc. be given the job first in preference to candidate who completed the formalities lateron."

3. The learned counsel for the applicant states that once the offer of appointment was issued to Respondent No.6, on compassionate grounds, for the post of Khallasi earlier and declined to accept that offer, he has no right to be considered for the post having completed the formalities earlier to the applicant, the applicant has a preferential claim for compassionate appointment.

4. On the other hand, the respondent No.6 by making an application dated 29.7.1999, requested the respondents to give him appointment to the post of Lift Operator on compassionate grounds, in pursuance that he was trade tested by a Committee and found fit to be appointed on the post of Lift Khallasi on 26.10.1999 and consequently approval was given for the appointment of Respondent No.6 to the post of Lift Operator by the Chief Engineer on 24.12.1999. As regards the applicant he made a request for the same

on 9.9.1999 and trade tested on 9.2.2000 and approval was accorded on 16.3.2000. Further by placing reliance on OM dated 28.12.1999, it is stated that the priority of the dependent family members for compassionate appointment should be computed, for the purpose of compassionate appointment, from the date of the death of the Government servant and it is further stated that the existing waiting list in all the categories of employees should be revised as per the aforesaid OM.

4. We have carefully considered the rival contentions of both the parties and perused the material on record. The learned counsel for the applicant further contended that on the same date along with R-6 the approval was accorded for appointment and he had completed the formalities earlier. As the merits as to who has completed the formalities earlier and the issue whether a compassionate appointment who has earlier refused is entitled for compassionate appointment on his making an application for the post of Lift Operator as in the case of R-6 and in view of the decision of the Apex Court in J.S.Parihar Vs. Union of India, JT 1996(9) SC 608. As there is a fresh cause of action, the CP is dismissed. Notices issued to the respondents are discharged. However, liberty is accorded to the applicant to assail his grievance pertaining to the compassionate appointment in proper forum and in accordance with law. No costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)

/rao/

(GOVINDAN S. TAMPI)
MEMBER(A)