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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, N.DELHI

O.A. NO. 1342 of 1988

2nd day of November, 1993.

Shri Justice V.S. Malimath, Chairman.

Shri S.R. Adige, Member(A).

Vinod Sharma  
R/o J-663, Mandir Marg,  
New Delhi.

... Applicant.

By Advocate Shri D.C. Vohra.

Vs.

Union of India through

(1) Union of India through  
The Foreign Secretary,  
Government of India,  
Ministry of External Affairs,  
South Block,  
New Delhi-11.

(2) The Secretary, IFS(B)  
Grades IV, V & VI Assn.,  
Ministry of External Affairs,  
C/o JCM Cell,  
Ministry of External Affairs,  
New Delhi-11.

... Respondents.

By Advocate Shri P.P. Khurana.

ORDER

Shri Justice V.S. Malimath.

The petitioner's father was canteen operator who had served the Ministry of External Affairs for a long time. Consequent upon his death, his son, the petitioner, was given compassionate appointment as Lower Division Clerk on 10.2.1977. This was done by ex-cadring one of the cadre posts of Lower Division Clerk and appointing the petitioner. The petitioner has continued to serve in ex-cadre post from 1977 till this date. He made several representations for



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his being encadred. He was informed by order dated 4.4.1988, Annexure 'L', that it is not possible to encadre his post. It is in this background that the petitioner has approached the Tribunal for appropriate relief.

2. The case of the petitioner is that the authorities when giving appointment to the petitioner in the year 1977 had in their mind to encadre the post in due course. In support of this statement, Shri D.C. Vohra, learned counsel for the petitioner, relies upon the Annexure 'F' which says that one cadre post has been kept vacant with effect from 17.1.1978 pending decision regarding encadrement of the petitioner with effect from 8.2.1977. The petitioner has also placed material to show that several persons who were originally appointed purely on a temporary basis in ex-cadre posts were subsequently encadred. Shri Khurana, learned counsel for the respondents, rightly pointed out that those are of cases of appointments made on compassionate grounds of dependents who died in harness for whom statutory reservation of 5% is available. When situations arose for those who deserved compassionate appointment exceeding the statutory limits, they were appointed against the ex-cadre posts and later absorbed in the cadre posts as and when there were vacancies available for compassionate appointment quota. There is, therefore, some difference between the appointment of the petitioner and the appointment of others. The authorities were quite aware of the situation when they made appointment of the petitioner. The fact that one post was reserved in his name in the cadre for long number of years from 1978 does justify the inference that it was the intention of the authorities when they gave compassionate



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appointment that his case in relaxation of the relevant provisions could be considered for encadring purposes in one of the vacancies that would be available for appointment on compassionate grounds. This is the factor which we are inclined to take into account along with <sup>the fact</sup> that the petitioner has remained in ex-cadre post from 1977 till this date which is a pretty long time. Having regard to this background, we consider it just, fair and reasonable to expect the respondents to accommodate the petitioner by encadring the post held by him in the next first available post in compassionate appointment quota.

3. For the reasons stated above, this application is allowed and the following directions are issued:

- (1) The respondents shall encadre the post held by the petitioner in the first next available vacancy meant for being filled within the quota for compassionate appointment of dependents of government servants dying in harness. No costs.
- (2) There is no order as to costs.

*S. R. Adige*  
(S. R. ADIGE)  
MEMBER(A)

'SRD'  
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*V. S. Malimath*  
(V. S. MALIMATH)  
CHAIRMAN