

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01141/2017

Jabalpur, this Monday, the 25th day of January, 2021

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Pushpraj Singh Maravi,
S/o Late Chhidami Singh Maravi
Aged about 32 years, R/o Village and Post Lohakari
Tehsil Kundam, District Jabalpur (MP) **-Applicant**

(By Advocate – **Shri V.S.Mishra**)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Defence (Army),
Headquarters-Raksha Bhawan,
New Delhi

2. Chief Engineer (HQ), Central Command,
CWE Jabalpur C/o 56-APO Pin 900540

3. Superintending Engineer Directorate
(Personnel and Local) for Chief Engineer,
Headquarters Jabalpur Zone,
Military Engineer Service,
Jabalpur, cantt 482001

4. Garrison Engineer (West),
Supply Road,
Cantt., Jabalpur

- Respondents

(By Advocate – **Shri Pramod Kumar Chourasia**)

O R D E R

By Ramesh Singh Thakur, JM:-

Heard.

2. This Original Application has been filed against the order dated 19.02.2017 (Annexure A-10).

3. From the pleadings the facts of the case are that the father of the applicant was working as Mate (Carpenter) under Garrison Engineer (West), Military Engineering Services, died in harness on account of an accident on 03.06.2012 (Annexure A-1) leaving behind his parents, wife and children including the applicant. The applicant passed out his High School Certificate Examination in the year 2002 and his date of birth is 01.07.1985 as is evident from copy of mark-sheet of 10th class, which is annexed as Annexure A-2. After having all the educational qualifications the mother of the applicant submitted an application to the respondents requesting to grant compassionate appointment to the applicant, along with all necessary documents. Copy of the application is enclosed as Annexure A-8. The respondent No.3 vide impugned order dated 19.02.2017 (Annexure A-10) rejected the application for grant of compassionate appointment to the applicant on account of non-availability of sufficient vacancies within 5% quota. Hence this Original Application.



4. The main grounds for challenged in this Original Application is that the applicant has given application for grant of compassionate appointment in the year 2012 whereas the same was considered by the respondents in the year 2017. Another ground for challenge is that the applicant possess all the requisite qualifications for being appointed on compassionate basis. Even the family circumstances are such that they have no source of income and they have no immovable property for their own.



5. The respondents have filed their reply to the Original Application. In preliminary submissions to the reply the respondents have urged that the applicant has applied for compassionate appointment after the death of his father on 03.06.2012. As per existing policy compassionate appointment can be made upto 5% direct recruitment vacancies which may be calculated on technical posts that have been arisen in the year. No compassionate appointment can be made if there is no vacancy. Department of Personnel and Training vide O.M. dated 05.05.2003 (Annexure R-1) lays down the time period for compassionate appointment and prescribes the maximum time a person's name can be considered for offering compassionate



appointment as three years subject to the condition that the prescribed committee has reviewed and certified that penurious conditions of the applicant at the end of 1st and 2nd year. Accordingly, the name of the applicant had been included in yearly board for the year 2012-13, 2013-14 and 2014-15. The screening committee at Headquarters has considered the case after taking into account various aspects i.e. numbers of dependent family members, moveable/immovable property, monthly income of earning members, amount of terminal benefits, drawing of family pension along with other conditions. Due to low merit and few/nil vacancies available, the case of the applicant has been rejected by BOO vide order dated 19.02.2017 (Annexure R-2).

6. The applicant has filed the rejoinder, wherein the applicant has reiterated its earlier stand taken in the Original Application. Counsel for the applicant submitted that DoPT had expressly clarified its instructions/Circular dated 26.07.2012 which was to the reference made to them to clarify whether the cases after expiry of 3 years in terms of their O.M. dated 05.05.2003 are required to be re-opened/examined or not to this it was clarified vide O.M.

dated 26.07.2012, that there is no limit for the consideration of request for appointment on compassionate ground which is to be considered on merit in terms of instructions contained in their O.M. dated 09.10.1998. A copy of which is annexed as Annexure A-11. Whereas the O.M. dated 16.01.2013 speaks about consolidated instructions on compassionate appointment. Further the object of the scheme of compassionate appointment annexed with the said O.M. reads as follows:



“1. Object

The object of the scheme is to grant appointment on compassionate grounds to a dependent family member of a Govt. servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.”

Further the O.M. reads for prescribing time limit for considering application for compassionate appointment.

“Prescribing time limit for considering applications for compassionate appointment has been reviewing vide this dept. O.M. dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Dept. and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.”

7. The counsel for the applicant further submitted that the Co-ordinate Bench at Cuttack of this Tribunal in its order dated 29.04.2019 passed in O.A. No. 260/272/2014 (Jyoti



Raman Prusty vs. D/o Post) had allowed the application of similarly placed applicant and thus directed the respondent to reconsider the case of the applicant for compassionate appointment subject to other provisions of the extant rules and instructions and pass appropriate orders to be communicated to the applicant within reasonable time. Further, the Principal Bench of this Tribunal while adjudicating on O.A. No. 2364/2014 in its order dated 10.09.2015, while allowing the application on similar grounds had directed the respondents to re-consider the application of applicant in line with the O.M. dated 09.10.1998 and further gave liberty to the applicant, that if the grievance still subsists, it would be open to him to work out his claim in accordance with the law.

8. Learned counsel for the applicant relied upon a Full Bench judgment passed on 27.10.2009 in the matters of ***Bank of Maharashtra and Another vs. Manoj Kumar Deharia and Another, W.A. No. 1007/2007***, wherein it has been mentioned that consideration and evaluation are required to be made in accordance with the existing policies and not on the basis of a policy or scheme, which has become extinct-having regard to the exceptional nature of

such appointment as it is granted under a special scheme carved out de hors the normal mode of recruitment, the same has to be governed as per the policies or provisions governing such appointment prevalent at a particular point of time when consideration is to be made and not on the basis of a policy which was in vogue and has been given up by the employer due to changed circumstances.



9. We have heard the learned counsel for the parties, and have gone through the pleadings and the documents annexed therewith.

10. From the pleadings it is very clear that the applicant was considered for three times for grant of compassionate appointment. The respondents in their reply have specifically submitted that the time limit for grant of compassionate appointment is three years. After three years if compassionate appointment is not possible to be offered the case of the applicant will be finally closed and will not be considered again. As far as rejoinder is concerned the applicant has submitted that Hon'ble High Court of Allahabad in its judgment dated 07.05.2010 in Civil Misc. Writ Petition No. 13102 of 2010, has re-examined the issue and it has been decided to withdraw the instructions contained in O.M.



dated 05.05.2003. The applicant has also relied upon the Full Bench Judgment of Hon'ble High Court wherein it has been mentioned that having regard to the exceptional nature of such appointment as it is granted under a special scheme carved out de hors the normal mode of recruitment, the same has to be governed as per the policies or provisions governing such appointment prevalent at a particular point of time when consideration is to be made and not on the basis of a policy which was in vogue and has been given up by the employer due to changed circumstances.

11. In the present case vide O.M. dated 26.07.2012 (Annexure A-11) the time limit for considering the application for compassionate appointment has been reviewed and the time limit for considering applications for compassionate appointment is Subject to availability of a vacancy and instructions on the subject issued by this Dept. and as amended from time to time, **any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.**

12. In view of it, the Original Application is allowed and the impugned order dated 19.02.2017 (Annexure A-10) is quashed and set aside. The respondents are directed to consider the case

of the applicant for grant of compassionate appointment on the requisite post as and when the new vacancy for the said post arises as per Annexure A-11. No costs.



(Naini Jayaseelan)
Administrative Member
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(Ramesh Singh Thakur)
Judicial Member