

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, CAMP AT NAGPUR**

ORIGINAL APPLICATION No.2219 OF 2017

Dated this Thursday, the 05th day of March, 2020

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)

Shri Chandrakant S/o Gulabrao Ingole,
Age about 30 years, Occ: Labour,
R/o C/o Naneshwar Wankhede, Sahid Nagar, Balaji Mandir,
Ramlu, Kamptee, Tah. Kamptee, Dist. Nagpur. - **Applicant**
(By Advocate A.B.Bambal)

Versus

1. Director General (Pers)/EIC(1),
Military Engineering Service Engineer-in-Chief's
Branch, Integrated HQ of MoD (Army),
Kashmir House, Rajaji Marg, New Delhi.
2. Chief Engineer, Headquarter Southern Command,
Pune - 01.
3. Chief Engineer (Fy) Hyd, Opposite Parade Grounds,
Sadar Patel Road, Secunderabad 500 003.
4. Garrison Engineer, Kamptee,
Dist. Nagpur 441 001. - **Respondents**
(By Advocate Ms. Renuka Puranik Nalamwar)

Order reserved on 19.02.2020

Order pronounced on 05.03.2020

ORDER

Shri Chandrakant Gulabrao Ingole, resident of C/o Wankhede, Sahid Nagar, Kamptee, District Nagpur has filed this OA on 08.09.2017 seeking quashing and setting aside of orders of respondents dated 27.09.2010, 21.05.2013 and 31.05.2013 (Annexes A-1, A-2 and A-3 respectively) and directions to the respondents to appoint him on compassionate grounds. He also seeks cost of this application from the respondents.

2. Summarized relevant facts :

2(a). The applicant has stated that his father late Shri Gulabrao Godruji Ingole while working as Electrical Skilled employee under respondent No.4 (Garrison Engineer Kamptee, district Nagpur) died while in service on 22.11.2000. At that time he was minor i.e. 14 years old and therefore, his mother applied on 01.03.2001 for grant of compassionate appointment to him. However, the applicant being minor, the respondent No.4 advised his mother in letter dated 09.03.2001 to attend his office after the applicant becomes 18 years old.

2(b). The applicant became major on 12.11.2004 and he submitted an application for compassionate appointment on 20.10.2005. By letter dated 27.09.2010 he was informed of order of Chief Engineer, Military Engineering Service, Southern Command, Pune rejecting his application as not considered being more than three years old. Aggrieved by that order, the applicant filed an appeal, which was also rejected by the respondent No.3 dated 31.05.2013 stating that his case could not be considered as per headquarters letter dated 05.04.2013 even on third consideration because his case was nine years old and that his case stood finally closed. Hence this O.A.

2(c). The applicant has also filed MA No.2232/2017 for condonation of delay in filing the present OA contending that

at the time of death of his father, he was only 14 years old, his elder brother is a disabled person and when his mother applied for compassionate appointment, she was advised that the applicant should submit the application after attaining the age of 18 years and even then the respondents have finally rejected his claim on third annual review, so the cause of action arose on 31.05.2013. But this OA has been filed with a delay of three years and four months which should be condoned in the interest of justice.

3. Contentions of the parties:

In the OA and rejoinder, and arguments of his counsel on 19.02.2020, the applicant contends that -

3(a). the applicant has further stated that as per instructions in circular No.3248 of Government of India, Ministry of Defence, Ordnance Factory Board, Kolkatta dated 07.01.2010 forwarded a clarification of DOPT stating that as per existing rules if a dependent of the deceased Government employee who was minor at the time of death of the employee, applies for appointment on compassionate grounds after he or she attains the age of 18 years, such application is to be considered and cannot be treated as time-barred or belated and necessary action may be taken as per the above clarification. Since the applicant made the application after becoming major, his case

deserves consideration and the impugned order of the respondents deserves to be set aside.

3(b). as per Apex Court decision in **Mukesh Kumar Vs. Union of India AIR SC 3077** and order of this Tribunal in OA No.338/2007 dated 17.04.2008 (**Ms. Vasundara Ramkrishna Kanade Vs. Chief Postmaster General**), representation for compassionate appointments submitted by the ward of the deceased employee immediately after becoming major should not be rejected as late and the case has to be considered by paying full attention to the details in accordance with law;

3(c). the applicant is XII standard pass, he has a house in a village which is in dilapidated condition and he does not have any landed property and rejection of his claim should be reviewed by considering his indigent condition. After review of his case by the Board for the year 2010-2011, his case has been rejected because of low rank in merit but in the details submitted by the respondents, family pension of his mother was also considered, who died on 08.06.2011. Therefore, the indigent condition of his family has changed on stoppage of family pension. Hence the impugned order should be quashed by allowing the O.A.

In their reply and during the arguments of their counsel on 19.02.2020, the respondents contend that-

3(d). late Shri Gulabrao Godruji Ingole was appointed in the office of Garrison Engineer, Kamptee on 09.09.1963 and he was due for superannuation on 30.09.2001 but he died on 22.11.2000. The applicant's claim for compassionate appointment was rejected vide letter dated 27.09.2010 clearly mentioning that the Board of Officers constituted at the Headquarters for considering the cases of compassionate appointments as per the OM dated 09.03.2001 of Ministry of Defence had considered his case but in view of receipt of family pension by his mother, receipt of terminal benefits of Rs.3,33,196/- and having movable property of Rs.45,000/- and earning of Rs.1,250/-, the applicant (who had applied for the post of LDC / Peon) scored 51 marks. But out of total applicants considered for those posts, the cut-off marks of the last candidate selected were 67 marks and therefore, even if the applicant's case was older than three years was to be considered, his score on merit was much lower than the cut-off marks and in totality of circumstances of the case, the Board of Officers and Screening Committee in the office of Chief Engineer Command Headquarters i.e. the Competent Authority rejected his application;

3(e). his case was again considered by the Headquarters on 23.05.2013 when there were three vacancies but 279 applicants. At that time the applicant scored 64 as against the cut off marks of the last selected candidate as 74/79.

Therefore, his name was not recommended for employment on compassionate grounds. Therefore, the case of the applicant has been correctly rejected by the respondents.

3(f). In support of their contention, the respondents have relied on these three case laws:

(i). State of Jammu & Kashmir Vs. Sajjad Ahemad Neer reported in 2006 SCC (L&S) 1195;

(ii). State Bank of India Vs. Somvir Singh reported in (2007) 2 SCC (L&S) 92; and

(iii). Umesh Kumar Nagpal Vs. State of Haryana reported in 1994(4) SCC 138.

In view of these submissions, the respondents contends that the OA should be dismissed.

4. Analysis and conclusions:

4(a). I have perused the O.A. memo and rejoinder filed by the applicant, reply filed by the respondents. Have considered the arguments advanced by the applicant and the caselaws relied upon by the respondents' counsel on 19.02.2020. Based thereon analysis of the case is as under.

4(b). The applicant has filed M.A.2232/2017 for condonation of delay in filing the O.A. However, except mentioning that his case has been rejected by the respondents and because of death of her mother on 08.06.2011, resultant stoppage of

family pension and changed indigent condition of the family, the delay of 3 years and 4 months should be condoned in the interest of justice. However, no satisfactory reason has been submitted by the applicant to justify as to why he could not approach the Tribunal earlier after rejection of his application by the respondents first on 27.09.2010, then on 21.05.2003 and lastly 31.05.2013. In fact as per Apex Court decision in **B. Madhuri Goud Vs. B. Damodar Reddy, 24(2012) 12 SCC 693** the delay can be condoned provided sufficient cause is shown by the applicant for not availing of the remedy within the prescribed period of limitation. In view of failure of the applicant to justify the long delay in filing of the present O.A., the M.A.2232/2017 is rejected.

4(c). The undisputed facts in the case are that the applicant's father while in service died on 22.11.2000. While the applicant was minor at that time, although he became major on 12.11.2004, he submitted his application for compassionate appointment after 11 months. As per applicable instructions of the respondents on the subject, his case was duly considered by the Board of Officers but in view of receipt of terminal benefits of Rs.3,33,196/-, family pension by the applicant's mother, possession of moveable property of Rs.45,000/- and income of Rs.1250/-, the applicant's score on indigent condition of the family was only of 51 marks as against cut off marks of the last selected candidate as 67 marks. Because of

similar reasons his case although considered again on 23.05.2013 came to be rejected again. These details make it very clear that the respondents have repeatedly considered the applicant's case but because of relatively less indigent condition of the dependent family of late Shri Ingole, the applicant could not be selected for appointment on compassionate grounds. I do not find any flaw or infirmity in this action of the respondents.

4(d). As per relevant instructions of DOPT OM dated 16.01.2013 on this subject and Apex Court decisions in a series of cases, the purpose of providing appointment on compassionate grounds is to help the family of the deceased Government employee immediately after the death. However, in the present case death of the applicant's father took place on 22.11.2000 i.e. more than 19 years earlier. The family has managed itself since then. Therefore, by now the applicant's claim for providing employment on compassionate grounds is stale and it cannot be entertained.

4(e). In view of these facts and analysis of the case, I do not find any merit in the present O.A. and it deserves dismissal.

5. Decision:

The O.A. is dismissed for unjustified long delay and on merits. No costs.

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg/H