

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2197/2004

New Delhi this the 13th day of April, 2005.

HON'BLE MR. SHANKER RAJU, MEMBER (J)

Sri Jyoti Singh,
S/o late Sri Dev Raj,
R/o RZ-361/299, Geetanjali Park,
Gali No.6, West Sagarpur,
New Delhi-46.

-Applicant

(By Advocate Shri S.D. Sharma)

-Versus-

1. Union of India,
through Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.
2. Director General,
Directorate General of EME (EME Civ),
MGO's Branch, AH.Qrs., D.H.Q., P.O,
New Delhi-11.
3. Comdt.
505, Army Base Workshop,
Delhi Cantt.

-Respondents

(By Advocate Shri Madhav Panikar)

ORDER

Denial of claim of compassionate appointment vide letter dated 28.7.2004 is assailed.

2. Applicant, son of late Dev Raj, who was working as a Blacksmith died during long illness on 18.5.2001, made his claim for compassionate appointment immediately.

3. By an order dated 28.7.2004 it has been transpired that the claim of applicant was considered by the Board on four occasions, i.e., June, 2002, September, 2002, December, 2002 and March, 2003 and as applicant as per the point secured 35 out of 100 was placed at serial No.51, 54, 41 and 46 respectively, whereas as per the direct recruit quota limited to 5% of

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46 respectively, whereas as per the direct recruit quota limited to 5% of the vacancies meant for compassionate appointment he could not come within the zone and was not appointed.

4. Learned counsel for applicant states that the order passed by respondents is not reasoned whereas as per the Scheme of DoPT on compassionate appointment dated 9.10.1998 as per clause 12 (c) the Committee should meet every month, which has not been done and for want of particulars as to in what manner applicant was inferior to others who have been accorded appointment on compassionate grounds, the order lacks objectivity and cannot be sustained.

5. Learned counsel further states that payment of retiral benefits and family pension cannot be sole criteria for appointment on compassionate grounds.

6. On the other hand, respondents' counsel vehemently opposed the contentions and stated that complying with the instructions of DoPT applicant's case was considered four times and he has not been found fit on four consecutive meetings of the Committee and as per the emoluments, liability and the fact that both the sons are major, claim for compassionate appointment cannot always be an indirect entry in government service and as there are no vacancies within the 5% quota and applicant has not come in the merit. In the light of the decision of the Calcutta Bench of the Tribunal in OA-323/99 decided on 27.4.2001 in **Shakuntala Devi v. Union of India** claim for consideration for appointment on compassionate grounds has been upheld. Learned counsel has relied upon the decision of the High Court of Delhi in CWP-4060/2000 decided on 19.3.2002 in **Anil Kumar Sikka v. Union of India**, where the claim of compassionate appointment has been rejected.

7. In the rejoinder learned counsel of applicant has vehemently reiterated his pleas and stated that in a reply filed in WP No.4852/1998 –

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Sagar Kumar v. Union of India the particulars of direct recruit as to compassionate quota has been described whereas the present order is non-speaking.

8. I have carefully considered the rival contentions of the parties and perused the material on record. In the matter of compassionate appointment one has no infeasible right to be appointed but only a right for consideration is available. If meticulously respondents have considered case of applicant and their policy adopted by the Board has been upheld by the Tribunal, applicant who could not secure point marks objectively arrived at and is less meritorious could not come within 5% vacancies in the quota meant for compassionate appointment the order passed by respondents itself is a reasoned one. Moreover, in **Punjab National Bank v. Ashwani Kumar Taneja**, 2004 SCC (L&S) 938 the Apex Court has held that amounts received under various heads are to be taken into consideration while considering claims for compassionate appointment.

9. As applicant's case has been duly considered in two consecutive years, i.e., in 2002 and 2003 in the light of DoPT OM dated 5.5.2003 such a consideration would also extend for another one year in case of an indigent family. Accordingly, OA stands disposed of with a direction to respondents to re-consider the case of applicant as per DoPT OM dated 5.5.2003. No costs.


(Shanker Raju)
Member (J)

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