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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-777/2004
MA-667/2004

New Delhi this the 21st day of February, 2005.

Hon'ble Shri Shanker Raju, Member(J)

1. Smt. Mangla,
W/o late Sh. Jagdish (Barber)
P.No.9833259
C/o Sh. bhajan Lal,
Gali No.10, Kasampur,
Meerut Cantt.(UP).

2. Sandeep Kumar,
S/o late Sh. Jagdish,
(Barber)
C/o Sh. Bhajan Lal,
Gali No.10, Kasampura,
Meerut Cantt.(UP).

..... Applicants

(through Sh. V.P.S. Tyagi, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General of Ordnance,
MGO's Branch Army Hqrs.,
DHQ P.O. New Delhi.
3. The Hqrs. Western Command,
Chandi Mandi, Panchkula,
Haryana.
4. The Commandant,
Central Vehicle Depot,
Delhi Cantt.
5. The Officer Commanding,
Vehicle Sub Depot,
Meerut Cantt.(UP).

..... Respondents

(through Sh. S.M. Arif, Advocate)

Order (Oral)

Applicant impugns respondents' order dated 3.9.2002 rejecting her
request for compassionate appointment.

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2. Applicant, a widow of civilian employee who died on 13.6.1999 with three minor children. The case of the applicant was considered by the Board on 22.3.2002, 17.6.2002 and 13.8.2002 but of lesser merit as other cases were more deserving and due to limited number of vacancies, the claim was rejected.

3. Learned counsel of the applicant relying upon the DoP&T O.M. dated 5.5.2003 where time limit for consideration has been increased for 3 years from 1 years, also relying upon the decision of this Bench in OA-3306/2003 contended that the applicant's being an indigent family, her claim has to be considered for compassionate appointment beyond one year.

4. Learned counsel states that DoPT Scheme of 1998 is applicable to defence as well.

5. Shri Arif, learned counsel of the respondents states that apart from 3 years time limit the respondents vide their Scheme promulgated on 26.6.2000 increased this limit to 5 years but with only 3 chances and the applicant's case was considered keeping in view the material factors on 3 occasions, the decision taken on 28.2.2002 holds the field. There is no illegality in their action.

6. I have carefully considered the rival contentions of the parties and perused the material placed on record.

7. Ministry of Defence vide their own Circular dated 12.7.2001 as well as Memorandum dated 26.6.2000 has increased the consideration for 5 years but with 3 chances. The case of the applicant was considered on all three occasions but for want of no merit, the same was not acceded to. Incidentally the vacancies are limited i.e. 5% of the direct vacancies meant for compassionate appointment quota.

8. DoP&T O.M. dated 5.5.2003 and the decision (supra) clearly rules that in the case of want of vacancies if the case is not considered for more than one year, it has to be considered in deserving case. It is an admitted position that applying 100 point formula the case of the applicant was considered and we do not find any material to establish that less meritorious candidates were offered compassionate appointment.

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9. Moreover, as only 5 of the 100% were taken the remaining 95% were deserving if the analogy put forward by Sh. Tyagi, learned counsel of the applicant is accepted, they have also right to be considered in the next year. Assuming he is right, no vacancy would fall in next year also to consider the case of the applicant.

10. In the result, any directions issued would be an exercise in futility.

11. As the applicant had already been given 3 chances with the accumulation of vacancies on each occasion, and as the case of the applicant was less meritorious, in the light of the fact that compassionate appointment cannot be claimed as a right, having considered the case of the applicant, the respondents have acted in accordance with law. There is no infirmity in their action. Accordingly, OA is dismissed as bereft of merit. No costs.

S. Raju
(Shanker Raju)
Member(J)

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