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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH N/DELHI

O.A.No.1204/92

DATE OF DECISION 19.11.92

Sh.Ramesh Chand

Applicant

V/s

U.O.I.

Respondents

For the Applicant

Sh.J.P.Verghese, counsel

For the Respondents

Sh.H.K.Gangwani, counsel

JUDGEMENT (ORAL)

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(Hon'ble Member Sh.S.R.Sagar, Member(J))

This application under Section 19 of the Central Administrative Tribunals Act, 1985 has been moved by the applicant for appointment on compassionate grounds.

The brief facts of the case of the applicant are that his father late Sh.Gopal was serving with the respondent No.3 organisation as Mali.He died on 14-5-1986, leaving behind his family without any source of income. The applicant has stated that he is only surviving son of his deceased father late Sh.Gopal as Shri Gopal's wife had died earlier before the death of his father. The applicant submitted representation to the respondents for his appointment on compassionate ground. The respondents appear to have called for some information as evidenced by enclosure I which was supplied by the applicant as ^{appears from} annexure-II. When nothing was heard by the applicant regarding his appointment, he filed his representation dt.9.2.88

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(annexure-IV) to the Director General, Medical Service, Army Headquarter New Delhi but the same has not yet been disposed of.

The application has been resisted by the respondents. They have taken the ground of limitation and have mainly contended that as per provision of CPRO 45/79, the application of the applicant regarding Employment assistance was initiated to higher authority through proper channel vide his letter No.2001/(CIV) Coy 13-6-87 but it was not agreed to by the Army Headquarter due to limitation and restrictions imposed by the Government of India, Ministry of Home Affairs vide their No. O.M.No.14014/1/77/Estt(D) dated 25.11.78. It is also further contended that it is not possible to sponsor the case of the applicant for employment in relaxation of the Employment Exchange procedure and the applicant has been advised to seek assistance of employment exchange in finding the employment as directed by the Army Headquarter vide their letter No.11346/PC-38 87/DGMS-3(R) dated 27-8-87.

The applicant has filed rejoinder. He has alleged that after the death of father of the applicant, there were two cases of compassionate appointments. The applicant has given particulars of those two cases and has alleged that because of this, the ground of the respondents that due to limitations and restrictions imposed by the Government of India as aforesaid employment on compassionate ground could not ^{be} provided to the applicant is not correct. With respect to the point of limitation the applicant has alleged that after the death of his father he has been waiting patiently to get a call of appointment from the respondents. Besides this, applicant has filed M.P. for condonation of delay.

I have heard the learned counsel for both the parties and have gone through the records.

It appears to me that the respondents have refused employment to the applicant on compassionate grounds for two reasons:-

" firstly due to limitation and restrictions imposed by the Government of India vide order dated 25-11-78 referred to above;

and secondly due to not registration of the name of the applicant with Local Employment Exchange.

So far as the question of limitations and restrictions of the Government of India for not giving appointment on compassionate ground is concerned, it may be stated that learned counsel for the respondents has himself admitted before me, during the course of his arguments, that some appointment on compassionate grounds have been made subsequent to the death of the applicant's father. He has, however, contended that there is some quota fixed for such appointment and appointment could be made only when any vacancy there for ~~is~~ exists in a particular year. Learned counsel for the respondents has submitted that vacancy for giving employment can not be carried forward and as there was no vacancy at that time, the employment to the applicant was not given. The applicant too has shown that others have been given appointment on compassionate ground. Thus these facts if taken together will make it clear that there were no restrictions by the Government of India for giving appointment on compassionate ground in deserving cases.

As regards the question of getting himself first registered with the Employment Exchange and then to get his name sponsored through that Employment Exchange to the employer the same cannot be permitted being violative of principles of natural justice. The purpose of providing




employment assistance at such time after death of the bread earner is to redeem the family in distress. If dependant of the deceased is first asked to approach the Local Employment Exchange and thereafter come through that employment exchange for seeking employment the same would frustrate the purpose of giving timely help by making compassionate appointment to the needy person, I am, therefore, unable to agree with the respondents on this point. The application has also been attacked on the ground of limitation. The ld. counsel for the applicant has submitted before me that due to financial difficulty, the applicant could not approach the Tribunal within the statutory period as prescribed under Section 21 of the Administrative Tribunals Act, 1985, after his representation dated 9-2-88 remained undisposed of. Records show that father of the applicant was serving with the respondent No.3 organisation as a Mali which most so far as I think is class -IV. Naturally on the death of such an employee, dependant would not be enjoying financial status for the applicant is not without force. The delay if any, in this case in filing OA, is therefore, condoned.

The ground urged before me by the ld.counsel

At the request of both the counsels, this case has been disposed of at the admission stage.

In view of what has been stated above, the application is allowed and respondents are directed to appoint the applicant on compassionate grounds to the post of Mali or any other similar post within a period of 3 months from the date of receipt of a copy of this judgement, no order as to costs.


(S.R. SAGAR)
MEMBER (J)