

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

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Original Application No. 556 of 2001.

this the 9th day of February 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Smt. Roshni Devi, w/o late Sri Subhash Chandra, R/o 160
Sujatganj, Kanpur.

Applicant.

By Advocate : Sri B.N. Singh.

Versus.

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Commandant, Central Ordnance Depot, Kanpur.

Respondents.

By Advocate : Sri R.K. Tiwari.

O R D E R

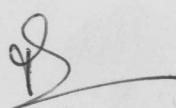
By this O.A., applicant has sought the following relief(s):

"(i) issue a order or direction to the respondents to give compassionate appointment to Jitendra Kumar against any class IVth post.

(ii) -----.

(iii) -----."

2. It is submitted by the applicant that her husband late Sri Subhash Chandra was working as Safaiwala when he died on 21.9.96 leaving behind applicant, two sons and one daughter. The younger daughter and son were minor, while Jitendra Kumar was about 20 years. Since the deceased employee had not left any movable or immovable property and they were ~~are~~ residing in a rented accommodation, she gave an application for granting compassionate appointment in favour of her son so that he could maintain the mother as well as younger brother and sister.



3. Vide letter dated 17.11.97 applicant was informed that her son's case was looked into by the Board of Officers, but the same could not be selected due to limited number of vacancies. However, she could file fresh application, which shall be looked into (Annexure A-4). It is submitted by the applicant that once again Jitendra Kumar gave an application on 28.11.97 and once again the respondents gave the said reply vide letter dated 13/15.4.98 directing him to file an application once again. He once again applied, but vide letter dated 13.9.99 respondents informed ~~that~~ Sri Jitendra Kumar that in view of more deserving cases and limited number of vacancies, his case stands rejected finally. He was also advised to get his name registered with the Employment Exchange for a suitable job. Being aggrieved, applicant gave an appeal to the respondent no.2 with a copy to D.G. Ordnance Services, Department of Defence, Govt. of India for reconsideration keeping in view the pitiable condition of the family (Annexure A-7) followed by reminder dated 2.1.2001, but till date respondents have not taken any decision thereon even though respondents are giving compassionate appointment to those dependent who are related to the officers of the respondent no.2 or where the trade union leaders are interested, thus, depriving other candidates of their due rights. He has, thus, submitted that he may be given the relief as mentioned above.

4. Respondents, on the other hand, have submitted that Sri Subhash Chandra died on 21.9.96 leaving behind his wife, two sons and one daughter. After receipt of the application, case of the applicant was placed before the Board of Officers in Sept.'97 wherein ~~name~~ of applicant's son was placed at sl. no. 24 out of 50 candidates for two vacancies. Sri Jitendra Kumar had obtained 41 marks, whereas last selected candidate obtained 87 marks, therefore, naturally he could not be selected and was accordingly informed vide letter dated 12.11.97. His case was again considered in March'98, this time again Sri Jitendra Kumar obtained 41 marks, whereas

last selected candidate obtained 77 marks, therefore, once-again he was informed about his non-selection vide letter dated 13.4.98. Finally his case was put up before the Board of Officers in Nov.'98 wherein he was placed at sl. no. 22 out of 52 candidates. He obtained 41 marks whereas last selected candidate obtained 68 marks. Accordingly he was informed vide letter dated 13.9.99 ~~as~~ ^{that} ~~there~~ ^{were} more deserving candidates than ~~to~~ him. They have submitted that compassionate appointment can be given only within the limited number of vacancies to the most deserving candidates and since applicant's son^{'s} name did not figure within the limited number of vacancies, therefore, there is no irregularity in the orders passed by the respondents. They have further submitted that compassionate appointment cannot be sought as a matter of right or as a line of succession and so long the case has been considered by the respondents, it calls for no interference. They have also annexed comparative assessment showing the position of the applicant's son as against other candidates considered in normal recruitment rules. In support of their contention, they have relied on number of judgments decided by Hon'ble Supreme Court. In view of the above, respondents have submitted that O.A. may be dismissed being devoid of merit.

5. I have heard both the counsel and perused the pleadings as well.

6. Perusal of Annexure CA-2 shows that in all the three Board's proceedings number of vacancies allotted were only 2 in Sept. 1997, one in March' 98 and one in Nov.' 98 whereas as many as 50 candidates ~~who~~ had applied for compassionate appointment, out of which the last candidate who was selected for compassionate appointment had received 87, 77 and 68 marks respectively, whereas son the applicant had received only 41 marks, which makes ^{it abundantly} B ~~abundantly~~ clear that there were more deserving cases than the applicant before the Board of



officers. In such a situation, naturally, compassionate appointment could have been offered to the most deserving candidates ^{only B} and the applicant cannot claim compassionate appointment by ignoring those candidates, nor can he claim that he should be given compassionate appointment by breaking the said queue. After all the object of giving compassionate appointment is not to appoint the dependent of each and every employee who dies in harness, but the same is to be given only in exceptional circumstances where financial condition of the family is absolutely bad and liabilities left by the deceased are so much that it would not be possible for the family members to sustain without the immediate assistance from the department. Here also, compassionate appointment can be granted only within the limited

5% vacancies meant for direct recruitment in a year, therefore, unless case falls within that 5% limited vacancies, no direction can be given by the Court to give appointment to any person on compassionate grounds. Hon'ble Supreme Court has repeatedly held that court cannot give a direction to the respondents to give compassionate appointment to any individual and at best the matter ^{can be B} is remitted back to the authorities concerned for re-consideration incase court is satisfied that his case has not been properly considered by the authorities. In this case, since the case of the applicant's son has been considered three times and each time there were more deserving candidates then the applicant's son, while number of vacancies were very few, therefore, I do not find any good ground to interfere in the case. O.A. is found devoid of merit and is accordingly dismissed. NO costs.


MEMBER (J)

GIRISH/-