

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ALLAHABAD THIS THE 4th DAY OF *April* 2006

ORIGINAL APPLICATION NO.1137 OF 2004

HON'BLE MR. K. B. S. RAJAN, MEMBER-J

Varun Kumar Yadav,
Son of Late Ravindra Kumar Yadav,
At present resident at 10/72 Jawaharganj,
Dharhariya, Allahabad.

.Applicant

By Applicant: Shri I. R. Singh

Versus

1. Union of India,
through the Defence Secretary,
New Delhi.
2. Dy. Controller of Defence Account (Admin),
Office of Principal Controller of Defence
Accounts (Pension Dropadi Ghat),
Allahabad.
3. Principal Controller of Defence Accounts,
(Pension) Dropadi Ghat, Allahabad.
4. Maha Niyantak Raksha Lekha,
Maha Niyantak Karyalaya West Block 5,
Ram Krishna Puram,
New Delhi, 110006.

. Respondents

By Advocate: Shri S. Singh

ORDER

A few dates and events extracted from the OA
would suffice to have a hang of the facts of the
case and the same are as under:

31.01.1999

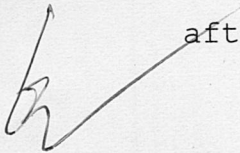
Father of the petitioner was
permanent Clerk in the office of
respondent no.2 died in harness
leaving behind widow, unmarried
daughters and son as legal heirs in
addition to old mother.



- 17.3.1999 Mother of the petitioner submitted an application before respondent no.2 for compassionate appointment under dying in harness.
- 30.07.1999 Respondent no.2 communicated that petitioner should be appointed after attaining 18 years.
- 18.01.2001 Mother of the petitioner submitted an application for compassionate appointment as petitioner has completed more than 18 years and also possessed qualification of High School.
- 26.6.2003 Respondent no.2 without considering the critical financial crisis and without considering the letter and spirit of compassionate appointment passed impugned order rejected the claim of petitioner as being more than 1 year old.

2. The contention of the respondents is that the case for compassionate appointment was processed as per provisions contained in DOPT OM dated 9.10.1998 and also in terms of guidelines dated 9.3.2001. As per the laid down procedure, appointment on compassionate grounds can be made to a dependent family member to relieve the family of the Government servant from financial destitution and to get over emergency. These appointments can be made up to a maximum of 5% of vacancy falling under direct recruitment quota in any Group 'C' or 'D' post on the recommendation of Selection Committee constituted for the purpose.

3. Based on the guidelines the Board of officers after considering the request for appointment on



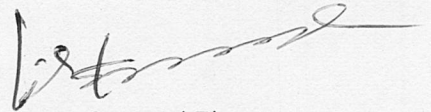
compassionate grounds should recommend appointment only to most deserving candidates and only if vacancy meant for appointment on compassionate grounds is available within a year. The case of the appointment of the applicant along with other similar cases was considered by the Board of Officers on 26.03.2002 for the first. The committee did not recommend the case for appointment on compassionate grounds due to non availability of vacancy. Committee reconsidered the case on three consecutive occasions afresh i.e. on 4.7.2002, 8.01.2003 and finally on 5.6.2003 but the case of the applicant was not recommended for appointment due to non availability of vacancy. The guidelines of the Hon'ble Supreme Court **Himanchal Road Transport Corporation Vs. Dinesh Kumar (JT 1996[5] and Hindustan Aeronautics Limited Vs. Smt. A. Radhika Trirumulai (JT 1996[9]** held that the request of Smt. Sushma Yadav for appointment on compassionate grounds in favour of her son, the applicant herein, cannot be considered and the same was, therefore, rejected being more than one year old.

4. Arguments were heard and the documents perused. The Circle Relaxation Committee had neatly drawn the statement and awarded marks to the claimants and according to the same, the applicant is at rank 2 (with marks 71). It is not understood, as to why

such a detailed drill was to be conducted if the CRC was finally to recommend that none be offered the appointment because of non availability of vacancies. When a particular exercise is consciously undertaken, there should be some solid purpose for the same. If on account of non availability of vacancies, none is to be offered the appointment, then the exercise conducted becomes redundant. Rather it becomes an empty formality. The ideal way is to keep such persons whose cases are more deserving (on the basis of the marks obtained) in the waiting list and offer the post as and when there arise vacancies. Of course, by the time such vacancies arise, there may be some more applications. Such applications could be considered simultaneously and the ranks rescheduled. Instead, rejecting en-mass the entire group on the ground of non availability of vacancies would mean deprivation of whatever right such candidates have.

5. In view of the above, interest of justice would be met if direction to the effect that from out of the list the rank holders be considered against the vacancies that are available or would be available in future and offer be made to them. If in that case the applicant's turn comes, he too would be the beneficiary. This drill be done immediately on the availability of vacancies under the 5% quota for compassionate appointment. In future as well the

Respondents should consolidate all the applications when vacancies are available and subject to the applications being within the period of limitation, if any, all such eligible cases should be considered. It is accordingly ordered. The applicant be informed of the position within a period of three months from the date of communication of this order. OA is disposed of. No cost.



Member (J)

/ns/