

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

Original Application No.1662 of 2004.

Allahabad, this the 19th day of August, 2008.

Hon'ble Mr. A.K. Gaur, J.M.

Surendra Singh Rana, S/o late Padam Singh Rana, R/o Village Saundhowali, Post Kaudoli, District Dehradun.

..Applicant.

By Advocate : Sri Vivek Srivastava.

Versus

1. Union of India through Secretary, Department of Indian Audit & Accounts, Ministry of Finance, Government of India, New Delhi.
2. Principal Director General of Commercial Audit Ex-official Member Audit Board II, 10 Bahadur Shah Zafar Marg, New Delhi.
3. Principal Director General of Commercial Audit Exoffcio Member Audit Board 108 B Dharampur Division, Dehradun.
4. Director (JCA), Ministry of Personnel, Public Grievances and Pensions, Department of Personnel Training, New Delhi.

...Respondents.

By Advocate : Shri S. Chaturvedi

O R D E R

I have heard Sri Vivek Srivastava, learned counsel for the applicant and Sri P. Srivastava holding brief of Sri S. Chaturvedi, learned counsel for respondents.

2. It is submitted that father of the applicant died on 26.8.2000 and thereafter the applicant applied for appointment on compassionate ground. The case of the applicant was considered for appointment on compassionate grounds, but his case has arbitrarily been rejected by the respondents without application of mind and no proper reasons have been recorded in the impugned order. On the other hand,

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Sri Pankaj Srivastava holding brief of Sri S. Chaturvedi, learned counsel for the respondents argued that in the order rejecting the application of the applicant for compassionate ground, it is mentioned that the basic object of providing compassionate appointment is to relieve the person from starvation and it is not the mode of recruitment. Apart from the widow, there are four adult sons who are already gainfully employed somewhere and one of the son of the deceased employee is already employed in the Army. The wife of the deceased is getting family pension and is also having movable and immovable property. It is also contended that the competent authority considered the case of the applicant for appointment on compassionate grounds, but due to limited number of vacancies to the extent of 5% under direct recruitment quota, the applicant could not be given appointment on compassionate grounds by the Department.

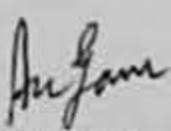
3. The learned counsel for the applicant has placed reliance on the decision of this Tribunal given in O.A. no. 1045 of 2004 in re. Smt. Laxmi Devi and Another Vs. Union of India & Another in order to substantiate his argument that the impugned order does not show that the financial condition of the applicant was taken into consideration by the Department as it simply states that the applicant's case could not be considered due to relative hardships in the face, a number of heirs of the deceased employee who are working in various places. The basic object for appointment on compassionate grounds is to provide the immediate relief to the family of the deceased.

4. I have gone through the entire pleadings of the case and have given my anxious thought to the submissions made by the learned counsel for the

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parties and I am firmly of the view that in the present case as per office memorandum dated 5.5.2003 the maximum time a person's name can be kept for consideration for offering compassionate appointment will be three years. In such period, in case the dependent of the deceased could not get appointment, his case will be finally closed and will not be considered again. As stated above, the father of the applicant died on 26.8.2000 and thereafter the case of the applicant for appointment on compassionate grounds was considered, but due to non-availability of vacancies within 5% quota under direct recruitment as per the O.M. dated 9.10.1998, as well as 5.5.2003, the case of the applicant for appointment on compassionate ground could not be considered. This vital fact stated in the Counter Affidavit has not been controverted by the applicant by filing Rejoinder Affidavit. In view of decision reported in 2006 (5) SCC 766 in re. State of Jammu and Kashmir Vs. Sajad Ahmad Mir the Hon'ble Supreme Court has clearly held that compassionate appointment is an exception to general rule. Normally the employment in the Government or public sector should be open to all eligible candidates who come forward to apply and compete with each other. This general rule should be departed only in compelling circumstances. I am fully satisfied that in the present case no compelling circumstances has arisen.

5. In view of the above, the O.A. has no merit and is dismissed accordingly. No costs.


MEMBER-J

GIRISH/-