

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A.No. 458 of 2004

Dated: This the 24th day of May, 2004

HON'BLE MRS. MEERA CHHIBBER, J.M.

1. Smt. Bhagwan Dei, aged about 65 years, of Wife of Late Manna Lal, Resident of Kachchi Sarak, Daraganj, Allahabad.
2. Ram Babu, aged about 28 years, Son of Late Manna Lal, Resident of 243, Kachchi Sarak, Daraganj, Allahabad.

... Applicants.

By Advocate: Shri Dasrath Prasad.

VERSUS

1. Union of India through Secretary Ministry of Defence, South Block, New Delhi.
2. Commander, Head Quarter Base Work Shop, Group EME, Meerut Cantt.
3. Director General of Ordnance Branch Army Head Quarters, D.H.Q., P.D., New Delhi.
4. Commandant, 508 Thal Sena Base Work Shop, 508-Army Base Work Shop, Allahabad Fort.

... Respondents.

By Advocate: Shri R.C. Joshi

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. applicant has sought a direction to respondent no.3 to decide his appeal, dated 08.06.1999. He has further sought direction to the respondents to appoint the applicant no.2 on a suitable group 'D' post under dying in harness rules forthwith to meet the ends of justice.

... pg 2/-



2. It is submitted by the applicant that late Manna Lal was husband of applicant no.1 and father of applicant no.2, who died on 08.09.93 leaving behind his widow, one son and a widow daughter and her two minor children. Since Late Manna Lal was the sole bread earner, therefore, applicant no.1 gave representation dated 03.1.1994 for appointment of her son on compassionate grounds. However, ultimately applicant received letter dated 17.4.1999 whereby her request for compassionate appointment was rejected (Annexure-AIV). Being aggrieved applicant no.1 filed an appeal on 08.6.1999 but till date his said appeal has not been decided by the respondents no.3 . The applicant was only informed by letter dated 10.2.2004 that her request has already been rejected, therefore, her son may look for job elsewhere. It is, in these circumstances, that applicant has filed the present O.A. on the ground that member of family are passing through very hard days and applicant no.1 is also bed ridden, therefore, it is a fit case for grant of compassionate appointment in favour of applicant no.2.

3. I have heard counsel for the applicant and perused the pleadings as well. Admittedly, father of applicant no.2 had died in 1993. The request for grant of compassionate appointment was also rejected vide letter dated 17.4.1999 whereas the present O.A. has been filed only in the year, 2004. It goes without saying that compassionate appointment cannot be sought as a matter of right in every case of death of the father, who is in service but the object of granting compassionate appointment is to tide over the sudden crisis, which is faced by the members of family on the sudden death of the sole bread earner of the family. Only in extreme financial hardship, where the family is not even able to survive, they are given immediate help by the department that too if it comes within the quota of 5% of the Vacancies meant for direct recruitment in the year.



Therefore, it is too well settled by now that compassionate appointment can be given only in exceptional circumstances. It is also a settled law that delay is very important factor in the case where compassionate appointment is sought because the fact, that applicant had been waiting for all these years itself shows that the family was not in such a bad financial condition.

4. Therefore, Hon'ble Supreme Court has held that in such cases the petition should not be entertained where the applicant approaches the Court with delay. Even Otherwise the only relief sought by the applicant in this case is that a direction should be given to respondent no.3 to decide his appeal and to direct the respondents to appoint the applicant on compassionate ground. The Tribunal does not have the power to give direction to the respondents to give appointment to any person on compassionate grounds. At best, it can give direction to re-consider the case, in case Tribunal is satisfied that case of applicant has not been considered by her department. In the instant case applicant's case has already been considered by the Board of Officers who did not find it a fit case for grant of compassionate appointment. Therefore, we feel that a direction to the respondents to appoint the applicant on compassionate grounds cannot be granted by this Tribunal.

5. As far as the first relief is concerned, counsel for applicant has not been able to show me any provision under which the appeal is maintainable against the rejection of request for compassionate appointment, therefore we are of the opinion that mere filing of an appeal does not give a right to the applicant to approach the Court after five years for seeking a direction to the respondents to decide their appeal. According to section 21 of Administrative Tribunals Act 1985 the period of limitation

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laid down under the Act is one year from the date of cause of action.

6. In these circumstances I do not think any of the relief(s) as prayed by the applicant can be given to the applicant.

7. The D.A.R is accordingly dismissed at the admission stage itself with no order as to costs.



Member-3

Brijesh/-