

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No.846 of 2004

Allahabad this the 21st day of April, 2006

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Gajendra Singh Raghav S/o Late Tuki Ram, Resident of Village Manpur, Post Office Rampur (Manpur) District Bulandshahar, at present residing at J-2/23-Kishanpur, Nai Abadi, District Aligarh.

Applicant

By Advocate Shri Deo Prakash Singh

Versus

1. Union of India, through Secretary, Ministry of Home Affairs, New Delhi.
2. The Director General Intelligence Bureau (Ministry of Home Affairs) Intelligence Bureau, Headquarters, New Delhi.
3. The Assistant Director, Subsidiary Intelligence Bureau (Ministry of Home Affairs), Government of India, G-12, Vikram Colony, Ram Ghat Road, Aligarh.

Respondents

By Advocate Shri Ashok Mohiley

O R D E R

By Hon'ble Mr. A.K. Bhatnagar, Member (J)

By this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for following reliefs:-

- (i) Quash the Order dated 22.1.1998 (annexure-8 to the O.A.) of Opp. Party No.3 communicating rejection of the appointment of the applicant on compassionate ground in the Subsidiary Intelligence Bureau under Dying in Harness Rules.

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- (ii) Direct the opp. Parties to appoint the applicant as Security Assistant in the Subsidiary Intelligence Bureau on compassionate grounds in place of his father or any other person for which the applicant qualifies.

2. The brief facts giving rise to this O.A. are that the applicant's father Tuki Ram died on 03.05.1997 during his service leaving behind his widow, two unemployed sons and a widow daughter. The mother of the applicant applied on 03.06.1997 to respondent no.3 for appointment of her youngest son (Applicant) on compassionate ground in the respondents' establishment (annexure-1 A). Vide letter dated 05.08.1997 (annexure-2), the mother of the applicant was asked to apply for compassionate appointment on prescribed proforma. It was sent duly filled in all respects (annexure-3). Again a letter was issued by the department on 05.09.1997 (annexure-4) asking her for some information, same was complied with. Again by letter dated 06.11.1997, the mother of the applicant was asked to give full information regarding her other sons Kamal Singh and Gandharv Singh and regarding market value of the house/immovable property, which was replied by mother of the applicant (annexure-6) giving the details about her sons that Gandharv Singh is engaged in agriculture/farming activities in the Village and the second son Kamal Singh is serving in SIB Aligarh on contingency basis. The market value of her house was also stated to the tune of Rs.65,000/- approximately. Ultimately, vide letter dated 22.01.1998 (annexure-8) the claim of the applicant was not acceded to after being examined by the I.B. Headquarters. Aggrieved by this, the applicant filed this O.A.

3. Counsel for the applicant contested this O.A. on the grounds taken in paragraph no.5.1 to 5.12 of the O.A. The main argument of counsel for the applicant is that the impugned order dated 22.01.1998 is non-speaking and there is absolutely no reason given for rejecting the claim of the applicant for compassionate

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rejecting the claim of the applicant for compassionate appointment. Learned counsel for the applicant further submitted that the Order passed by the respondents cannot be justified by mentioning the reasons and other facts in the counter affidavit on which the claim of the applicant was rejected. Therefore, the Order passed on 22.01.1998 is arbitrary and against the provision of dying in harness rules.

4. Counsel for the applicant placed reliance on the case of S.N. Chandrashekhar and another Vs. State of Karnataka and others (2006) 3 SCC 208 in which it has been held that the Order passed by a statutory authority has to be judged on the basis of its contents and not on the basis of the explanation in the affidavit.

5. On the other hand counsel for the respondents contesting the claim of the applicant, filed counter affidavit and submitted that the family of deceased employee has received an amount of Rs.2,40,314/- towards terminal benefits in addition to family pension of Rs.2750/- for first seven years and thereafter Rs.1650/- plus admissible Dearness Relief. Apart from it, the family also owned a house at Aligarh. The first son Shri Pitam Singh of the deceased is already serving as JIO-II/G in the pay scale of Rs.3200-4900. The other two sons Kamal Singh and Gandharv Singh are doing their farming activities. The case of the applicant was examined in terms of paragraph no.4 (e) of Department of Personnel & Training Office Memorandum dated 30.06.1987 and 09.10.1998. The object of compassionate appointment is to relieve the family of the deceased Government servant concerned from financial destitution and to help it get over the emergency. As the eldest brother of the applicant is a Government servant and was an earning member of the family, the applicant's mother was given the terminal benefits as well as pension, applicant's mother owning a house and other two brothers of the applicant are

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doing farming, hence taking into account over all condition of the family in terms of Govt. instructions, the request of the applicant for appointment on compassionate ground was not acceded to. In this regard, a reply was also sent to the Office of deceased employee i.e. S.I.B., Aligarh under communication to the mother of the applicant. Learned counsel further pointed out that the applicant filed a Writ Petition No.14046 of 1998 before the Hon'ble High Court of Allahabad, which was dismissed with liberty to the applicant to file O.A. before the Central Administrative Tribunal, Allahabad within 2 months from the date of Judgment i.e. 29.09.2003. The present O.A. was filed after a gap of about 9 months, therefore, the present O.A. is also barred by limitation. The applicant has also not filed any Time Extension Application and filed this O.A. before this Tribunal after 9 months. Counsel for the respondents placed reliance on the case of Punjab National Bank and others Vs. Ashwini Kumar Taneja (2004) 7 SCC 265 in which it has been held that **the appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.**

6. Counsel for the applicant filed Rejoinder Affidavit, reiterating the facts already mentioned in the Original Application.

7. Heard Counsel for the parties and perused the record available before me.

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8. It is now well settled that by providing compassionate appointment, the intention is that on the death of the employee concerned, his family is not deprived of the means of livelihood. The object is to enable the family to get over the sudden financial crisis. It is also an admitted fact that the applicant filed a Writ Petition No.14046 of 1998 before the Hon'ble High Court, which was dismissed vide Order dated 29.09.2003 granting liberty to the applicant to approach the Central Administrative Tribunal within 2 months from the date of Judgment. It was also clearly mentioned that if such an application is filed within time, the same shall be ignored on the ground of delay or limitation. Admittedly, the applicant filed this Original Application on 28.07.2004 after about 9 months, misusing the liberty granted by the Hon'ble High Court. It is also not understood as the applicant has stated in paragraph no.4.1 of the Original Application that father of the applicant died leaving behind his Widow, two sons unemployed and widow daughter while in the certificate issued by the District Magistrate, filed as annexure-9 of the O.A., the legal heirs shown are Wife, two married daughters and four sons. It is also not disputed that the elder son of the deceased employee is a Govt. servant and other two sons are engaged in farming. Moreover, applicant's mother was granted terminal benefit to the tune of Rs.2,40,314/- apart from family pension of Rs.2750/- for first seven years and thereafter Rs.1650/- plus admissible Dearness Relief. The family of the deceased employee also owned a house. The case law cited by the respondents' counsel also fortifies the stand of the respondents' counsel in view of paragraph no.4 and 7 of the Judgment wherein it has been held that in cases of appointment on compassionate ground the financial conditions have to be taken into consideration. Accordingly, it is clear that the appointment on compassionate ground cannot be claimed as a matter of right. The case law cited by the applicant's counsel does not help him as memorandum

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dated 22.01.1998 (annexure A-8) is only an intimation regarding the decision taken by Intelligence Bureau Headquarters.

9. Under the facts and circumstances and in view of the aforesaid discussion and in the light of Judgment cited above, I find no ground to interfere in the Order passed by the respondents. Therefore, O.A. which is bereft of merit stands dismissed. No order as to cost.


Member (J)

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