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Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

Original Application No. 1085 of 2005

wednesday this the *28th* day of May, 2008

Hon'ble Mr. K.S. Menon, Member (A)

Bikal Singh Son of Late Mahadev Singh,
Resident of Village-Barjee, P.O.-Nasratpur,
Soravn, District-Allahabad.

Applicant

By Advocate Sri A. K. Tiwari & Shri Vinod Kumar

Versus

1. Union of India through Secretary,
Ministry of Defence, South Block, New Delhi.
2. Commander Works Engineer (MES) Meerut Cantt,
Cantt. (CWE). Rurki road, Meerut Cantt.
3. Chief Engineer Bareilly Jone, M.E.S. Saroday Nagar,
Station Road.
4. Chief Engineer Central Command, Lucknow.

Respondents

By Advocate Sri Saumitra Singh

ORDER

By K.S. Menon, Member (A)

This O.A. has been filed by the applicant under Section 19 of the Central Administrative Tribunals Act 1985 seeking directions of this Tribunal to the respondents to appoint the applicant on compassionate appointment under dying in harness rules to the post of Peon, Chowkidar or Mazdoor consequent upon the death of his father Late Mahadev Singh on 19.05.1997 while serving under the Garrison Engineer, E/M MES Rurki Road,

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Meerut Cantt. This OA has been filed along with an M.A. No.3184 of 2005 seeking condonation of delay in filing the OA on the grounds of extreme financial hardship and time spent in pursuing the case with the respondents to ascertain the outcome of his application submitted on 07.10.1998. In the interest of justice the MA No.3184 is allowed and delay in filing the OA is condoned.

2. The facts of the case in brief are that the applicant is the adopted son of Late Mahadev Singh who was working under the Garrison Engineer E/M Rurki Road, Meerut Cantt. Late Mahadev Singh had already submitted the adoption documents duly registered during his life time to respondent no.2. Mahadev Singh died while in service on 19.05.1997. There is no mention in the pleadings whether the widow of Late Mahadev Singh is alive or not and if alive whether she has applied (on behalf of the applicant) for grant of compassionate appointment. Since the respondents have not raised or referred to this issue it can be assumed that the OA is in order. The applicant applied on 07.10.1998 for grant of compassionate appointment to any post of Peon, Chowkidar or Mazdoor under the respondents in lieu^{of} his late father. The applicant claims that he was called for an interview on 08.07.1999 which was subsequently cancelled and thereafter he appeared at the next interview which was held on 03.12.1999. Thereafter he sent several representations and the last one on 16.03.2005 (Annexure No. IV to the OA), despite this he has not heard from the respondents regarding his case while

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certain juniors who had applied for compassionate appointment were absorbed. Being aggrieved by this he filed the present OA.

3. The respondents have in their reply countered the averments made by the applicant. They deny that they had received applications from the applicant except the one dated 07.10.1998 (Annexure CA-I) and the one dated 16.03.2005. Respondents admit that the terminal dues of Late Mahadev Singh were paid to the applicant being legal heir of Late Mahadev Singh. On the issue of grant of compassionate appointment, the respondent's claim that the first interview for the applicant scheduled for 08.07.1999 had to be cancelled as the Presiding Officer of the Board was transferred. The next interview was held on 21.08.2001 but the applicant absented himself (Annexure CA-II). The applicant however, attended the interview scheduled on 03.12.1999 but was not able to produce valid documents regarding his educational qualification and age. Respondents in para 13 of their CA have submitted that the applicant in his application dated 07.10.1999 has indicated his qualification as Class VIII pass while submitting another copy of the application he had attached a copy of an alleged mark sheet of an High School Examination which indicated that some Bikal Singh had passed the High School Examination. The certificate did not mention the father's name or the candidate's address. In the OA the applicant has indicated that he has passed Class VI. In view of this the Board after taking into consideration that ^{as were} these three sets of facts regarding the applicant's Educational Qualifications and the fact that the applicant could not produce

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documents regarding his educational qualification and proof of age declined to recommend the applicant for grant of a compassionate appointment. In short his candidature was rejected. Since the applicant has not come forth with any cogent ground for filing the present OA, while the respondents actions are in conformity with the various rules and instructions on the subject, they have urged the dismissal of the OA.

4. Heard Shri Vinod Kumar learned counsel for the applicant and Shri Saumitra Singh learned counsel for the respondents and perused the pleadings on record.

5. The applicant's father expired on 19.05.1997 and the applicant applied in August 1997 for payment of his deceased fathers' terminal dues like GPF, CGEIS, Leave Encashment and Family Pension. As per para 9 of the counter affidavit these dues were cleared immediately. The applicant sought compassionate appointment after more than a year after the demise of his father i.e. on 07.10.1998. Going by the date of birth 26.06.1982 as mentioned by the applicant in his application dated 07.10.1998 he would have been 16 years when he applied for compassionate appointment and would therefore not have been eligible as the minimum age limit for appointment to Government Service is 18 years which is not relaxable. There appears to be some discrepancy regarding the applicant's actual date of birth. ^{2w} During the interview he attended on 03.12.1999 he was unable to produce valid documents regarding proof of age in order to put the issue at rest. Regarding Educational

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Qualifications also there appears to be conflicting versions. In his application dated 07.10.1998 he has mentioned that he has passed Eighth Class at that time no document was attached to substantiate the same. Subsequently he sent another copy of the application attaching a copy of the mark sheet of High School Examination (10th Class Examination). The authenticity of this mark sheet is also in doubt as it does not indicate the name of the father and the applicants address besides the discrepancy with reference to the applicants own submission of having passed Eighth Class. The situation has been further complicated with the applicant submitting in para 4.7 of the OA that he has passed only sixth class. No attempts have subsequently been made by the applicant to indicate the correct position supported by relevant documents. Besides he also failed to attend the interview scheduled on 21.08.2001, intimation for which was sent to him by Registered Post by the respondent (Annexure CA-II) and he was therefore marked "Absent". The applicant does not seem to have shown any genuine interest in setting the records straight regarding eligibility or in getting selected for the post by appearing in the interview. The scheme of the Government of India for grant of compassionate appointment stipulates the eligibility condition as under:-

- i) The family is indigent and deserves immediate assistance for relief from Financial destitution and
- ii) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

6. The respondents very rightly did not recommend him for grant of a compassionate appointment. There is however no indication in the pleadings that the decision taken in the applicant's case has been conveyed to him by the respondents by a reasoned and speaking order in accordance with the Ministry of Defence, orders on the subject. Respondents are directed to comply with the above within a period of one month from the date of receipt of a certified copy of this order.

7. The OA is accordingly disposed off with the above observations/directions.

No Costs.

J. Menon
Member-A 28/5/08

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