

(11)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1222 OF 2005

ALLAHABAD THIS THE 21<sup>ST</sup> DAY OF AUGUST, 2007

HON'BLE MR. K. S. MENON, MEMBER-A

Pravin Kumar,  
Son of Late Chhangu Lal,  
Resident of Mohalla-24/3 Bhavapur,  
District-Allahabad.

. . . . .Applicant

By Advocate : Shri Arvind Yadav

Versus

1. Union of India,  
through the Comptroller and Auditor  
General of India,  
New Delhi.
2. Principal Accountant General (Civil Audit),  
U.P. Allahabad.
3. Accountant General (Account and Establishment)  
Ist, U.P. Allahabad.

. . . . .Respondents

By Advocate : Shri S. Chaturvedi & Shri A. Sthalekar

ORDER

This present Original Application No.1222 of 2005 has been filed challenging the order dated 13.06.2005 issued by respondent no.3 in which the applicant's claim for appointment on compassionate ground has been rejected. The impugned order is Annexure A-1. The applicant's father Shri Chhangu Lal was working as a Senior Accountant in the office of respondent no.3 and died in harness on 13.08.2001 after 32 years of service. At the time of death of Shri Chhangu Lal the family consisted of following members: -

*[Handwritten signature]*

(12)

1. Smt. Dhaniya Devi (wife) A/A 52 years (House Wife).
2. Sunil Kumar (Son) A/A 28 years, (A patient of mental decease).
3. Anil Kumar (son) A/A 26 years (Unemployed graduate).
4. Pravin Kumar (son) A/A 21 years (Unemployed Post graduate).
5. Arvind Kumar (Son) A/A 19 years (Unemployed Intermediate).

The applicant in the proforma had clearly indicated the assets and liabilities of the family including details of loan, which were pending to be discharged. The widow of the deceased employee who was permitted by the respondents to prefer an application for compassionate appointment in respect of the third sons (applicant) on his attaining the age of 18 years, the widow complied with the same and submitted the application for the third son along with prescribed proforma giving full details. The applicant states that without considering the full details of the financial condition of the family i.e. the assets and liabilities and also all the other factors/attributes which are to be taken into account for consideration of compassionate appointment cases the respondents have rejected the claim of the applicant vide impugned order dated 13.06.2005. Being aggrieved by the said order he has filed the present OA.

2. The learned counsel for the respondents counter his arguments by stating that the family was in receipt of an amount of Rs.6,30,371.00 as per the following break up.

(13)

(i)	Death Gratuity	Rs.322,480.00
(ii)	Leave Encashment	Rs.1,00,780.00
(iii)	C.G.E.I.S.	Rs.44,754.00
(iv)	G.P.F.	Rs.1,62,357.00
	Total	Rs.6,30,371.00

Besides the above the widow was also in receipt of a Monthly Family Pension of Rs.3,745/- plus dearness relief thereon. The learned counsel for the respondents further states that the case for compassionate appointment of the applicant was considered by the Departmental Selection Committee in December 2002 and the said committee had rejected the case keeping in view the monetary benefits made available to the widow as well as the circular issued by the respondent no.1 dated 19.02.2003. It appears that this circular stipulates the monetary limits category wise on the basis of which compassionate appointment can be considered. Since the applicant was already in receipt of an amount higher than the stipulated limit laid down for Group 'C' the case was rejected. The respondents have also stated in para 16 of the counter affidavit that compassionate appointments should be made only on regular basis and that to only if the regular vacancies up to a maximum 5% of vacancies under Direct Recruitment Quota in any group 'C' or Group 'D' post is available. They have also relied on settled case laws as under: -

"It is also to be mentioned here that the Hon'ble Supreme Court in the case of "Himanchal Road Transport Corporation Vs. Dinesh Kumar" [(JT) 1996(5) SC 319] on May 7, 1996 and in the case of 'Hindustan Aeronautics Limited Vs. Smt. A. Rachika



(14)

*Thirumalai' [JT 1996(9) SC 197] on October 9, 1996 has held that appointment or compassionate grounds can be made only if vacancy is available for that purpose."*

In view of the above they say that the case does not have any merit and deserves to be dismissed.

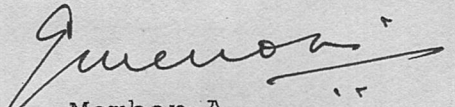
2. It is admitted that compassionate appointment is not a matter of right and this Tribunal has no jurisdiction to direct the respondents to give compassionate appointment and also the fact that it is to be given in case of an emergency in order to tide over the financial difficulties on the death of the sole bread earner, however, it is also a fact that various reasons that have been put forth by the respondents for rejecting the claim of the applicant should also be incorporated in the order that has been passed while rejecting the claim of the applicant. In the present case, it is evident from the impugned order at Annexure A-1 the various reasons that have been put forth in the Counter Affidavit have not <sup>been</sup> reflected in the impugned order. A general reading of the impugned order clearly indicates that the case has been rejected only on the ground that it exceeds the monetary limit laid down by the respondent no.1. I have to observe that the respondents have not applied their mind at least while passing the impugned order. If they have considered all aspects of the case as per the guidelines laid down by the D.O.P.T. then a reasoned and speaking order is the minimum that can be expected from the respondents.

2

(15)

3. In view of the above, the impugned order dated 13.06.2005 is set aside. The respondents are directed to reconsider the case of the applicant indicating clearly their findings on each of the attributes, which have been stipulated in the D.O.P.T. guidelines and the Departmental Circulars on the subject and clearly indicate the marks against each of the attributes and pass a reasoned and speaking order which shall incorporate the actual financial condition of the applicant within a period of three months from the date a certified copy of this order is placed before them.

4. There shall be no order as to costs.

  
Member-A

/ns/