

OPEN COURT

(11)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 1306 OF 2005

ALLAHABAD THIS THE 03rd DAY OF MARCH, 2008

HON'BLE MR. ASHOK S. KARAMADI. MEMBER-J

1. Smt. Krishna Devi, adult aged about 48 years, W/o late Sri Vijay Bahadur, R/o Block No. 3. Macrobertganj, District Kanpur Nagar.
 2. Surya Bahadur, adult, aged about 23 years, S/o late late Sri Vijay Bahadur, R/o Block No. 3. Macrobertganj, District Kanpur Nagar.
-Applicants

By Advocate: Sri Krishna Lal

V E R S U S

1. Union of India through Controller General of Defence, West Block-5, R.K. Puram, New Delhi.
 2. Principal Controller of Accounts (Fys), 10-A Saheed Khudiram Bose Road, Kolkata.
 3. Dy. Controller Finance and Accounts, Ordnance Equipment Factory, Kanpur.
-Respondents

By Advocate: Sri. S. Singh

ORDER

This application is filed for direction to the respondents to consider the case of the applicant no.2 for appointment on compassionate grounds on the suitable post.

2. The case of the applicants is that husband of petitioner no.1 died in harness on 25.10.2000 leaving behind wife (applicant no.1) sons and daughters. The applicant no.1 requested for compassionate appointment in favour of applicant



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no.2 after the death of husband of applicant no.1. The said request of the applicant was rejected by orders dated 30.6.2004 and 21.3.2005.

3. On notice, the respondents have filed Counter affidavit contending that the case of the applicant no.2 was considered by the respondents with reference to the guidelines and rules applicable and further it is stated that the case of the applicant no.2 was considered more than once. It is specifically stated that the case of the applicant was considered by fourth and final time, but due to non-availability of the vacancy meant for compassionate appointment, the request of the applicant no.2 namely Surya Bahadur has been rejected. Finally, it is the case of the respondents that even then they have considered the case of the applicant on taking into consideration all the materials furnished and available on record, but due to non-availability of the vacancy the case of the applicant could not be considered even though there were finding that the case of the applicant no.2 for appointment on compassionate grounds was genuine one, but the respondents have failed to do so. For these reasons, the respondents have sought for dismissal of O.A.

4. I have heard the learned counsel for the applicant and respondents. The learned counsel for the applicant states that having regard to the fact that the deceased employee was only the earning member of the family and after his death, the deceased family has no other source of income and livelihood of the members of the deceased family have become miserable as they have no source of income for their continuance and further it is stated that in spite of the fact that the respondents have



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stated that 5% vacancies is considered for appointment on compassionate grounds, but they have not given the particulars in the Counter Affidavit, nor in the order passed and the reasons given for non-availability of the vacancy is not just and proper. To consider the contention of the learned counsel for the applicant, it is just and proper to go through the contents of Counter Affidavit and impugned order passed. Having regard to the reasons given by the respondents for rejection in the impugned order and in view of the statement made in the Counter Affidavit stating that the case of the applicant was considered by respondents on taking into consideration all the materials furnished and available on record come to the conclusion that the respondents have got sympathy and case of the applicant is deserving one, but same could not be acceded to having regard to the fact that as there is no vacancy meant for compassionate appointment for considering his case and to give appointment to the applicant no.2. In view of these reasons, I do not find any justifiable ground for consideration the case of applicant no.2.

5. So far as the case laws cited on behalf of the applicant is concerned, it is stated that in one case namely Mohan Mahto Vs. M/s Central Coal Field Ltd. and Ors reported in 2007 (9) SRJ 556, the Hon'ble Supreme Court has directed the respondents therein to offer appointment to the appellant on a suitable post. That case deals with under the Industrial Disputes Act 1947. In that case by virtue of limitation, the respondents did not consider the case of the appellant and, therefore, rejected. Having regard to the same, it cannot be said that the same direction be given in the instant case as the facts



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and circumstances of the case is quite different from the facts and circumstances of the cited case. Further, it is made clear that the Hon'ble Supreme Court was dealing with the case under the Industrial Disputes Act 1947 and cannot held that compassionate appointment is not one, which is to be given out-rightly without considering the merits of the case as well as the eligibility criterion concerned. The other decision cited on behalf of the applicant is also not applicable in the present case. Having regard to the fact in a case where the department has come to the conclusion that on taking into consideration the decision based on the administrative exigencies and based on policy and guidelines, the Court is very slow in granting the relief. In that view of the matter, I do not find any justifiable ground to interfere the orders impugned passed by the respondents. Accordingly, the O.A. is dismissed with no order as to costs.



MEMBER-J

GIRISH/-