

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR. A.K. GAUR , MEMBER (J).

Original Application Number. 1359 OF 2005

ALLAHABAD this the 16 day of 9, 2009.

1. Smt. Puniya Devi, aged about 52 years, widow of Late Shri Radhey Shyam Singh, Resident of Village & Post Atoos, Tehsil-Kirawali District-Agra.
2. Bharat Singh, aged about 32 years son of Late Shri Radhey Shyam Singh, resident of village & post Office Atoos Tehsil Kirawali District Agra.

.....Applicant.

VE R S U S

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Commandant, Ordnance Depot, Agra-282 009.

.....Respondents

Advocate for the applicant: Sri Rakesh Verma

Advocate for the Respondents: Sri R. K. Srivastava

O R D E R

The applicant Through this O.A filed under section 19 of Administrative Tribunals Act, 1985 has prayed for quashing the impugned order dated 20.04.2005/Annexure A-I of O.A coupled with prayer for a direction to the respondent No. 2 to forward the request of the applicant No. 2 for appointment in favour of applicant No. 2 on compassionate ground to the Competent Authority and other relief/s.

2. The case of the applicants, in brief, is that the husband of the applicant No. 1 Late Radhey Shyam Singh, who was a working as Packer

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Mate, COD Agra, died on 20.06.2003 leaving behind his wife and three sons namely Bharat Singh, Dhirmendra Singh and Karan Singh. After the death of deceased employee, applicant No. 1 made an application to the respondent No. 2 for grant of compassionate appointment in favour of applicant No. 2. Thereafter, the respondent No. 2 vide letter dated 18.07.2003 directed the applicant No. 1 to fill up application on the prescribed form (Part A), in response to which the applicant No. 1 appeared alongwith applicant No. 2 before respondent No. 2 but he directed to appear after two or three days. In the meantime the applicant No. 1 received a letter dated 11.02.2004/Annexure A-IV issued by Respondent No. 2 stating therein that despite the letter dated 18.07.2003 alongwith prescribed format no application duly filled up received for placing the same before Board of Officers. Thereafter, both the applicants appeared in the office of respondent No. 2 on 20.02.2004 and continued to approach the personnel department for redressal of their grievance. As no proper reply given by the respondents, the applicants sent a legal notice dated 07.04.2005.

3. Learned counsel for the applicants submitted that vide order dated 20.04.2005, the respondents No. 2 rejected the claim of the applicants. Learned counsel for the applicant further submitted that as per procedure regarding compassionate appointment, merit is to be assessed by the duly constituted Board of Officer thrice in a year after receipt of application on prescribed format. Learned counsel for the applicant invited my attention to the order dated 20.04.2005 and submitted that the case of the applicant was never placed before the Board of Officer and the respondent No. 2 has rejected the claim of the applicants at his own level, which is totally illegal and without jurisdiction.

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4. On notice, the respondents have filed Counter Affidavit . Learned counsel for the respondents submitted that the proper application form was handed over to the applicant No. 2 on 05.08.2003 but despite the letter dated 11.02.2005 was issued in this regard, the applicant No. 1 did not submit the application form to C.O.D., Agra and only for this reason, the case of the applicants could be placed before Board of Officer. .

5. Learned counsel for the respondents placed reliance on judgment of Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana and others - JT 1994(3) SC 525** and submitted that appointment on compassionate grounds can be considered only if the family is in indigent circumstances and not as a matter of right, which can be executed at any time in future. In the said judgment, Hon'ble Apex Court has further held that the compassionate appointment cannot be granted after lapse of a reasonable period. Learned counsel for the respondents further submitted that in the present case, two sons of the applicant No. 1 are in Army service and two daughters are already married.

6. Applicants have filed rejoinder affidavit reiterating the facts stated in the original application.

7. I have heard rival contentions, perused the pleadings as well.

8. Having heard learned counsel for the parties, I am firmly of the opinion that the applicants have not submitted their application form on the format provided by the respondents. The applicants themselves did not show responsibility in submitting the application form for being placed their case before the Board of Officers. This fact has also not been denied by the applicants in the Original Application. In the instant

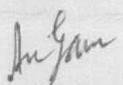
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case, the father of the applicant, who was a working as Packer Mate, COD Agra, died on 20.06.2003 and the family has survived during this period. In view of the decisions rendered by Hon'ble Supreme Court in **M.T. Latheesh's case reported in 2006 (7) SCC 350 as well as in the case of State of J&K and Ors. Vs. Sajad Ahmed Mir (2006)5 SCC 766 and 2007(1) SCC (L&S) 668, National Institute of Technology Vs. Manoj Kumar Singh**, the appointment on compassionate ground cannot be granted to the applicants after lapse of sufficient time of the death of an employee. As per the decision of Hon'ble Apex Court rendered in State of J&K (supra), in which it has been held that 'once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution'.

(Underlined to lay emphasis)

9. In view of the aforesaid observation and law laid down by Apex Court, the applicant has failed to make out any case for interference. Accordingly the O.A is dismissed being devoid of merit.

10. There will be no order as to costs.


MEMBER- J.

/Anand/