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RESERVED:

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 3rd DAY OF MAY, 2006
Original Application No. 1409 of 2005**

CORAM:

HON.MR.JUSTICE KHEM KARAN, V.C.

Jagannath Prasad Srivastava,
aged about 34 years, son of
late Jagdish Prasad Srivastava,
R/O Q.No.155/5, New labour Colony,
Bapupurwa (Kidwai nagar),
Kanpur Nagar.

.. Applicant

(By Adv. Shri R.K. Shukla)

Versus

1. Union of India,
through the Secretary,
Ministry of Defence,
Department of Defence Production &
Supplies, Govt. of India,
New Delhi- 11.
2. The Secretary,
Ordnance Factory Board,
10-A, Shaheed Khudiram Boss Road,
Kolkata- 1
3. The General Manager,
Small Arms Factory,
Kalpi Road,
Kanpur.

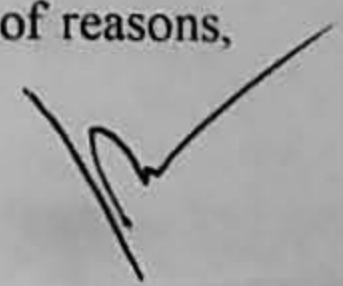
.. Respondents.

(By Adv. Shri Ashok Mohiley)

ORDER

BY JUSTICE KHEM KARAN,V.C.

The applicant, son of late Shri Jagdish Prasad Srivastava is challenging order dated 23.4.05 (Annexure A-1) by which the respondent, communicated to him that his request for appointment under dying in harness Rules, had been turned down. He has stated that the said rejection is bad for variety of reasons,



(S) (6)

disclosed in para 11 and 12 of O.A. Main amongst them are (a) that while he applied on 21.2.01, but his case was considered as late as in the year 2005 and had been considered in 2001 or 2002 or 2003, he would have secured the appointment; (b) that the terminal benefits coming to the family on account of death of the father of the applicant could not have been taken into consideration for assessing the financial status of the family; (c) that as per rules/executive instructions his case ought to have been examined thrice, but was examined only once, (d) that the Committee was not correct in showing the number of dependants or the months still to be served by the deceased.

2. In para 16 of their reply, the respondents have said in so many words that the case of the applicant for compassionate appointment was considered thrice i.e. in 2001, 2004 and 2005 in accordance with the relevant instructions/guidelines issued from time to time but could not be cleared by the committee, owing to limited numbers (5% of direct quota) of vacancies, number of such applicants and the poor ranking of the applicant. They have further stated that the family of the deceased has received terminal benefits to the tune of Rs. 3,29,062/- and is also getting family pension @ Rs.2500+D.P.+D.A w.e.f. 1.4.04, which were rightly taken into consideration as per latest guide lines and the judicial pronouncement of the Apex court in 'Punjab National bank and Ors Vs. Ashwani Kumar Taneja', 2004 Vol 102 F.L.R.1023. They say that the case of the applicant has rightly been rejected.

3. In rejoinder the applicant has tried to reiterate the same plea which he took in OA and nothing new has been said. By now, it stands well settled that such appointments are by way of exception to the general mode of recruitment and these are made just to save the family from acute economic distress. In view of the latest judicial pronouncements of the Apex court, financial position of the family has to be looked into and in doing so the terminal benefits can also be taken into consideration. The decision of the Committee or Board of Officers, can be interfered with, only if it is found that the same is biased as guide lines



were not followed or irrelevant material was considered or relevant material was left out from consideration. This Tribunal is not to sit in appeal over such decisions and will not be justified in re-evaluating the material for itself.

4. As per the averments made in reply, applicant's case was considered thrice, but unfortunately he was not found fit for such appointment. It is never the allegation of the applicant that the officers, constituting the Board, were biased. The learned counsel for the applicant could not show, as to which Rule or guide line was breached. The terminal benefits were rightly taken into consideration, in view of the law cited in reply. Minor errors, such as number of family members or months still left to be served by the deceased, do not materially affect the decision so taken. Such a meticulous or technical approach cannot be adopted with a view to judge the correctness of the administrative decisions. No glaring infirmity is visible in the decision, as to entitle this Tribunal to interfere in the matter.

In the result, this OA being devoid of merits, is dismissed but with no order as to costs

[Signature]
VICE CHAIRMAN 30.5.06

Dated: May 30, 2006
Uv/