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Open Court

**Central Administrative Tribunal Allahabad Bench
Allahabad.**

Allahabad This The 12th Day Of November, 2008.

ORIGINAL APPLICATION NO. 1433 OF 2005.

Present:

Hon'ble Mr. Justice A.K. Yog, Member (J)

Syed Faiz Alam, son of late Syed Sabir Ali,
Resident of 79-A, Chak Dondi, Naini, District
Allahabad.

.....Applicant

By Advocate: Shri Syed Irfan Ali/Saurabh.

Versus

1. Union of India through its Secretary,
Ministry of Defence, New Delhi.
2. Director, General of Ordinance Services,
New Delhi.
3. Commandant, Central Ordinance Depot, C.O.D.
Cheoki, District Allahabad.
4. S.A.A. Zafri, S/o late Syed Sabir Ali,
resident of 79A Chak Dondi Naini,
Allahabad.

.....Respondents

By Advocate: Shri Pranay Krishna

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Heard Shri Saurabh, Advocate, appearing on
behalf of the applicant and Shri Pranay Krishna,
Advocate appearing on behalf of the respondents
and perused the pleadings.

2. Admittedly, father of the applicant died on
12.11.1999 while he was serving the respondent's-
department. According to the applicant, family
members of the deceased employee (including the
Applicant) had 'family settlement' wherein right
to seek compassionate appointment was given to the
applicant (Para 4.6 of the O.A.). Accordingly the

Applicant submitted an application for compassionate appointment on the ground that his father had died in harness. 'Board of Officers' of the Respondent Department, as contemplated under Compassionate Rules, considered his claim but he was not found eligible though was considered three times in view of the criterion laid down under said 'Compassionate Rules' (para 4.t of the O.A.), the applicant failed to secure sufficient marks allocated on basis of criterion laid down under 'Rules in question'.

3. Being aggrieved, applicant had filed O.A. No.255 of 2003, which was disposed of by Single Member Bench vide final order dated 25.3.2003 (Annexure 5 to the Compilation II of the O.A.). For ready reference para 5 of the said final order is reproduced below:

"In the instant case perusal of the impugned order shows that no reason at all have been given while rejecting the case of the applicant except that there are more deserving cases and number of vacancies are limited. It goes without saying that in case of compassionate appointment the criterion, which the authorities are to look into, are basically the financial condition of the family, the number of persons left behind by the deceased employee whether they are minor or major children, the liabilities and assets left by the deceased employee and also to see whether there is any other income available to the family members from and other sources. The impugned order no-where shows that the authorities have applied their mind and thus aspect of the matter, therefore, in my considered view such a cryptic order is not sustainable in law. Accordingly, the impugned order dated 26.4.2002 is quashed and set aside. The matter is remitted back to the authorities with a direction to consider the case of applicant keeping in view the criterion as mentioned above and to pass a reasoned and speaking order within a period of three months from

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the date of receipt of a copy of this order under intimation to the applicant"

4. In pursuance to the said order, applicant approached filed representation dated 16.4.2003, which is also rejected by means of order dated 14.7.2003 (Annexure 1 to the O.A.). The Applicant seeks to assail this impugned order in this O.A. and prays for writ, order or direction in the nature of certiorari to quash the impugned order dated 14.7.2003/Annexure 1 to Compilation 1 to the O.A.

5. I have carefully gone through the impugned order. It is a well reasoned order, showing application of mind as discussed in hereinafter.

6. Learned counsel for the applicant argued that under aforequoted order of the Tribunal dated 25.3.2003, respondents Department was required to consider afresh candidature of the applicant under Compassionate Quota. Aforequoted passage from the order of the Tribunal dated 25.3.2003, it is clear that earlier order dated 26.4.02 (Annexure 2 to Compilation 2 of the O.A) was quashed on the ground hence did not contain

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reason and it did not reflect application of mind. This argument is not available as far as impugned order dated 14.7.2003 is concerned. Photostat copy of the original record have been placed for perusal before me it contains documents/ correspondence etc. to show that case of the applicant was considered in normal course- taking into account all relevant factors within the framework of existing Rules.

7. Apart from the above, it may be noted that applicant has filed Misc. Application with a prayer to condone delay in filing present O.A. It may be noted that order sought to be impugned in the present O.A. is of 14.7.2003, O.A. was presented in the Registry of this Tribunal on 16.9.2005. In the Condonation of delay application, it is stated that facts have been disclosed in the O.A. Relevant para of the O.A. on the issue (re. Condonation of Delay) is para 4 (b)/ which reads:-

"(b) That subsequent to the death of Syed Sabir Ali who died in harness there was a family settlement between the two brothers, i.e. Syed Fair Alam, the present applicant and Shri S.A.A. Jafri, who is not educated, the respondent NO. 4 that younger brother, i.e. the present applicant Syed Faiz Alam should get the job on compassionate grounds in place of his father. In this connection the applicant wrote to the Commandant, C.O.D. Chheoki, Naini, Allahabad hereinafter referred to as respondent NO.3 vide application dated 21.8.2000. A copy of the application dated 21.8.2000 is enclosed herewith and marked as Annexure NO.1 to this application".

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8. In support of the pleadings contained in
aforequoted para, applicant has filed
Photostat copy of the alleged medical
certificate dated 18.8.2005/Annexure 10 to
Compilation II of the O.A. In the said medical
certificate, Registration number and body of
Authority registering as Practitioner has not
been printed in the letterhead. Registration
number is given by hand which is suspicious.
Moreover, nature of disease has not been
elaborated and given in the O.A. to appreciate
it English used in the Medical Certificate
reflects standard of said Medical Doctor-
having Degree- 'B.U.M.L'. Besides the above,
applicant has not cared to file Photostat
copies of his prescription/s or details of
treatment etc. or anything to indicate
continuity of treatment to explain latches.
Medical certificate purports to have been
issued on 18.8.2005. Apparently, it has been
procured with an intention to forge
explanation to explain delay and to present
O.A. This Medical Certificate and the
pleadings referring to it do not inspire


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confidence and no reliance can be placed upon it.

9. In addition what has been noted above, according to the applicant his sister (Ms. Sabana Begum) got married on 15.12.2002 (i.e. after the death of his father). This shows his family is not in distress which required 'immediate mitigation'. Moreover, the applicant and his family has sustained and managed his treatment for long two years. 'Compassion and charity' are meant to help 'needy' and that too at appropriate stage but in actual practice- virtually in major cases misused/exploited frustrating its 'solemn' object. Such appointment in public services are now virtually a 'seam'.

10. O.A. has no merit besides being time barred and not maintainable. It is accordingly dismissed.

11. No order as to costs.


Member (J)

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