

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH: ALLAHABAD.**

WEDNESDAY, THIS THE 30<sup>TH</sup> DAY OF MAY, 2007.

QUORUM : HON. MR. P.K. CHATTERJI, A.M.

**ORIGINAL APPLICATION NO.553 OF 2005.**

1. Smt. Kewala Devi, aged about 47 years, widow of, Late Abhimanyu Prasad.
2. Dakshveer Prasad, aged about 25 years, son of, Late Abhimanyu Prasad.  
Both R/o, Village Hridayapur, Post Sarnath, District Varanasi.

..... Applicants.

Counsel for applicant: Shri S. Lal.

**Versus**

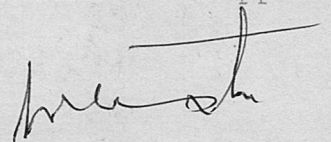
1. Union of India through the Secretary, Ministry of Textile Udyog Bhawan, New Delhi.
2. Vikas Ayukta (Hathkargha), Udyog Bhawan, New Delhi.
3. Director, Indian Institute of Handloom Technology, Chowkaghat, Varanasi.

..... Respondents.

Counsel for Respondents: Shri R.C. Shukla.

**ORDER**

This O.A. is for a job on compassionate appointment for ~~the~~<sup>applicant's</sup> son after the death of her husband, who was an employee of Indian Institute of Handloom Technology, Varanasi. The death occurred on 22.9.2001. Soon thereafter, on 14.12.2001, an application was filed for providing a job to the son of Late Abhimanyu Prasad. After the representation, the applicant got a reply from the Respondents on 27.7.2002 (Annexure-1) in which it was intimated that for the reasons that there was no vacancy available under compassionate quota, no appointment under compassionate ground could be made at that time. This is the order, which has been impugned by the applicants, who have sought the relief that a direction be issued upon the Respondents to appoint/



consider the case of the applicant No.2 for the post of group 'C' or group 'D' in the unit.

2. Applicant No.1 is aggrieved that her son had a right for compassionate appointment in terms of the relevant Rules of the department and also as per the rulings laid down by the Hon'ble Apex Court in the matter of compassionate appointment. It is true that such appointment would be subject to the availability of vacancies but in this case, the matter has not been placed before the appropriate Committee for consideration in terms of the DOPT guidelines No.F-14014/6/94/Estt-D dated 9.10.1998. The applicant is of the view that after the impugned order was issued, five years have passed and it is not likely that any vacancy has arisen for considering the appointment of her son. Therefore, the applicant prays for a direction to be issued upon the respondents for considering the request now.

3. The respondents have filed counter affidavit in the matter saying that the request could not be approved, as there was no vacancy under compassionate quota. Counsel for the respondents has stated that along with applicant, 12 cases were forwarded to Respondent No.2 for consideration of the request after formation of the Board. However, on 30.5.2002, a letter was received from the Joint Development Commissioner to the Director ISTT, Varanasi in which it was stated that the applicant could not be appointed on compassionate ground due to non-availability of any vacancy in direct recruitment quota in group 'C' and 'D'. On the basis of this letter, the applicant was informed on 27.7.2002 (the impugned letter). Counsel for the respondents has also stated that as per the decision of the Hon'ble Supreme Court, Himachal Road Transport Corporation Vs. Dinesh Kumar, JT 1996(5) SC 319 and Hindustan Aeronautics Limited Vs. A. Radhika Thirumalai, JT 1996(9) SC 97, appointment on compassionate grounds

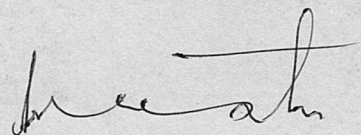
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can be made only subject to availability of the vacancy. Learned Counsel has also cited from the case of LIC Vs. Mrs. Asha Ram Chandr Ambedkar, J/t 1994(2) SC 1983 that the Tribunal cannot give any direction on the compassionate appointment and that can only direct consideration of the claim for such appointment.

4. In course of hearing, counsel for the respondents admitted that the case of the applicant along with the others was forwarded to the appropriate authority. However, due to non-availability of vacancies, the Board could not be constituted and the case of the applicant along with others could not be placed for consideration. In other words, it is admitted that the request of the applicant for the job on compassionate appointment has yet to be considered. During hearing, a pertinent question was asked by the counsel for applicant that it was most unlikely that even in five years, no vacancies in the direct recruitment quota has arisen. This point of the counsel for the applicant cannot be set at naught. The sum and substance of the matter as of now is that the request of the applicant has still not been considered. It is also quite likely that vacancy might have arisen in the appropriate quota during this period.

5. With these considerations, I would like to dispose of this O.A. with a direction on the respondents that if a vacancy has already arisen, the request of the applicant should be got considered by the appropriate Board and suitable decision as admissible under the rules as also the guidelines of the DOPT be taken. If vacancy has already arisen, such a decision should be taken and conveyed to the applicant within a period of four months from the date of receipt of a certified copy of the order.

6. If vacancy has really not arisen till now, the request of the applicant should be considered on the



availability of the first vacancy that would arise through the appropriate Board of Officers along with all other applications that might have been received on merits vis-à-vis the other applicants and appropriate decision be taken in keeping with the rules and guidelines of the DOPT. After this exercise, the decision should be conveyed to the applicants.

7. With the above direction, the O.A. is disposed of with no order as to costs.

*M. A. M.*  
A.M.

Asthana/