

2

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.600 OF 2005
ALLAHABAD THIS THE 24TH DAY OF NOVEMBER, 2006

HON'BLE DR. K.B.S. RAJAN, MEMBER-J

1. Mrs. Sunita Srivastava
wife of Late Virendra Kumar Srivstava.
2. Shobhit Srivstava Son of Late Virendra Kumar
Srivastava.
Both the residents of M.I.G.26, Ratanpur Colony,
Panki.

.Applicant

By Advocate : Shri S.M. Abbas Naqvi

Versus

1. Union of India through
The Controller General of Defence Accounts,
Ministry of Defence, West Block V.R.K. Puram,
New Delhi.
2. Principal Controller of account (FYS)
10-A, Shaheed Khudi Ram Bos Road, Kolkata.
3. The J.C.F.A.(FYS) Account Office,
Ordinance Factory, Kanpur.

.Respondents

By Advocate : Shri Ajay Singh

O R D E R

The list of dates accompanying the OA would suffice to have a hang of this case. The same is extracted as hereunder:

S.No.	Dates	Events
1.	20.09.2000	Petitioner's husband Late Sri Virendra Kumar Srivastava died due to all health.
2.	3.2001	Petitioner no.2 made out an

8

		application for employment under Dying in Harness Rules on compassionate ground.
3.	14.10.2003	Petitioner's application was rejected due to non-availability of vacancy through the case was found deserving by respondents.
4.		Time to time kept reminding the respondents about pathetic condition of bereaved family but no heed paid.
5.	10.08.2004	Again a letter impugned dt. 10.08.2004 was sent by respondents do not correspondent any more as request of petitioner has not been acceded due to no vacancy.
6.	13.8.2004	Petitioner no.2 again sent a reminder for reconsideration of the case as the family is reaching under financial distress. But no heed. Hence the petition.

2. The respondents have submitted in their counter that the reason for rejection of the case of the applicant on the fourth time is on the ground of non availability of vacancies meant for compassionate appointment. Para 3(b) of the counter refers.

3. The counsel for the applicant submitted that under the provisions of Para 7(E & F) contained in the scheme for compassionate appointment,

7 (e): *Employment under the scheme is not confined to the Ministry/Department/Office in which deceased/medically retired Government servant had been working. Such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.*

7(f): *If sufficient vacancies are not available in any particular office to accommodate the person in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department/Office of the Government*

(9)

of India to provide at an early date appointment on compassionate grounds to those in the waiting list.

4. Initially the counsel for the respondent was not available, after the judgment was reserved, the counsel appeared and submitted that the counter contains all the points for consideration by the Tribunal.

5. Arguments were heard and documents perused. The spinal reason for rejection of the case of the applicant is that there are no vacancies. True, the scheme envisages location of vacancies elsewhere but the date of the scheme is as early as 1998. It is not exactly known whether the aforesaid two conditions are still subsisting as during the past eight years, a number of decisions of the Apex Court have been pronounced and in such judgments there does not appear to be any such directions to locate the vacancies in any other department. If the said provision still subsists, it is essential that the respondents do make attempt in this regard, as primary reason for rejection of the case of the applicant is non availability of vacancies.

6. Very recently, there has been a specific order of the Nodal Ministry (DOPT) and the same reads as under:-

"3.....the following decisions have been taken:-

(10)

While the existing ceiling of 5% for compassionate appointment may not be modified but the 5% ceiling may be calculated on the basis of total direct recruitment vacancies for Groups "C" and "D" posts (excluding technical posts) that have arisen in the year. Total vacancies available for making direct recruitment would be calculated by deducting the vacancies to be filled on the basis of compassionate appointment from the vacancies available for direct recruitment in terms of existing orders on optimization".

7. In view of the fact that the case of the applicant has been rejected on the ground of non availability of vacancies and now that the above provision would increase the number of vacancies available for compassionate appointment, the respondents are to ascertain whether the case of the applicant could be covered by such vacancies, and if so, due consideration be given to extend offer of appointment of any suitable post to the applicant. For this purpose, it would be advisable if the case of the applicant is considered before consideration of various applications by the Circle Relaxation Committee and the decision communicated.

8. With the above observations/directions, the OA is disposed of.

No cost.

Member-A

/ns/

Member-J