

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO.977 of 2005

Allahabad, this the 2nd day of April, 2008

Hon'ble Mr. Justice Khem Karan, Vice-Chairman

Kiran Sankhwar W/o Late Shri S.K. Sankhwar
R/o LIG-169, Barra 7 Kanpur.

...Applicant.

(By Advocate : Shri S.P. Singh)

Versus

1. Union of India, Ministry of Finance,
Government of India, New Delhi through its
Secretary.
2. The Commissioner Central Excise, Sarvoday
Nagar, Kanpur.

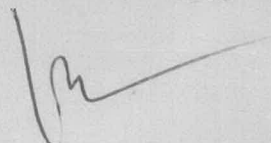
...Respondents.

(By Advocate : Shri R.P.Singh)

ORDER

The applicant has filed this OA, praying that the respondents be directed to appoint him as Clerk on compassionate grounds and to decide his application for such appointment.

2. She alleges that her husband Late Shri S.K. Sankhwar was in employment of the respondents and he died on 12.9.1999, while still in service, leaving behind him four School going minor children (02 sons and 02 daughters) and aged parents. It is said that one of ^{the} daughter₁ is physically handicapped and ^{family} ~~has~~ ^{has} no adequate means of livelihood, after the death of Late Shri S.K. Sankhwar. She alleges that she gave one application on 1.5.2000 to respondent No.2 for giving appointment on compassionate grounds. Copy of this application is Annexure-A-2. When nothing was done on that application, she gave



representation as mentioned in the OA and also met the respondent No.2 personally. Her grievance is that her case has not been considered and the matter is being kept at that, without any express decision.

3. The respondents have filed reply saying that as under the existing instructions such appointment could be made only against 5% of the vacancies of Direct Recruitment and since no such vacancies were available in that quota, so the request of the applicant for compassionate appointment could not be considered. It has also been said that request made to the Ministry vide letter dated 26.5.1999 for extending the quota beyond 5% was rejected, so there was no possibility of considering the case of the applicant for such appointment. It ~~has~~ also been said that no such appointment on compassionate ground is possible in the grade of Central Excise Inspector or in the ~~grade~~ preventing officers. 5

4. I have heard Shri S.P. Singh, learned counsel for the applicant and Shri A.K. Singh holding brief of Shri R.P. Singh, learned counsel for the respondents and have perused the entire material on record.

5. This much is not in dispute that the applicant's claim for compassionate appointment under Dying in Harness Rules has not been considered on the ground that there ~~was~~ ^{were} no ^{vacancies} ~~vacancy~~ in the ~~limit~~ ^{quota} of 5% of ~~direct~~ Recruitment and no such appointment could be made in the grade of Inspector Central Excise. What Shri S.P. Singh says ^{is} that if the applicant's appointment is not possible in the grade of Inspector Central Excise for any reason, she may be considered for appointment on any post in Group 'D'. ~~As~~ the applicant's case has not been considered on merits for the reasons stated in the reply and as the applicant is also ready to be considered for any

post in Group 'D'; ~~So~~^{So} it seems just and proper to dispose of this OA with suitable directions to the respondents.

6. This OA is finally disposed of with a direction to respondent No.2 to consider the case of the applicant for compassionate appointment on any post in Group 'D' in accordance with the relevant rules/guidelines on the subject, within a period of three months from the date a certified copy of this order is produced before him. No costs.

(Signature)
02/4/08
Vice-Chairman

RKM/