

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Allahabad this the 14<sup>th</sup> day of November, 1994

Original Application No. 915 of 1993

Hon'ble Mr. S. Das Gupta, Member (A)  
Hon'ble Mr. Jasbir S. Dhaliwal, Member (J)

Ishwar Nath S/o Late Lok Nath, R/o Village Kan-  
dhaipur, P.O. Dhoomanganj, District Allahabad.

Applicant

By Advocate Lt.Col. Ashok Kumar (Retd.)

Versus

1. Union of India through Deputy Director General,  
Military Farms (MF-I) AHQ, QMG Branch West Block-III  
Wing No. 7, R.K. Puram, New Delhi.
2. Assistant Director, Military Farms, Central Command  
Lucknow.
3. Officer-in-Charge, Military Farm, Kanpur.

Respondents.

By Advocate Shri N.B. Singh

O R D E R

By Hon'ble Mr. Jasbir S. Dhaliwal, Member (J)

Simple case of the petitioner is that he was serving as a casual labourer on daily wage basis at Military Farm, Kanpur till January, 1988, where his father Late <sup>Shri</sup> Lok Nath was employed as a permanent labourer. Sri Lok Nath died on 02.6.1988 when he <sup>was</sup> hit on head by a thief whom he tried to catch hold of inside that Military Farm. The case of the applicant was recommended by respondent no.3 to respondent no.2 vide letter dated 09.6.1989 for ~~the~~ appointment on compassionate grounds. His grievance <sup>is</sup> that he has not been appointed despite his father having died in harness. while, one Narain S/o Sri Ayodhya Prasad was given employment

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on compassionate ground whose ~~as his~~ father had died a month later <sup>then</sup> the death of the petitioner's father. He also pleads that had he been allowed to continue working, he would have become regular like his colleagues S/Shri Harham, Lokai and Durga? When the respondents refused to give him employment, he filed a Civil Misc. Writ Petition in the High Court at Allahabad which had through an interim order directed the respondents to appoint him in place of his father or to show-cause. The respondents did not honour the order and the High Court repeated its order vide order dated 03.5.1993. That petition was contested by the respondents saying that High Court has no jurisdiction and, therefore, the petitioner come to this Tribunal. He has annexed the copy of letter from the respondents showing that the application of the petitioner had been recommended by the Manager, Military Farm, Kanpur.

2. The respondents have contested the petition on the ground that the application of the petitioner was submitted to the Deputy Director Headquarter, Central Command, Lucknow for further transmission to the respondent no. 1 but, it was received back with the remarks that two sons of deceased Sri Lok Nath were already in service and this fact had been so declared by the petitioner himself through Annexure C.A.-1. It was clarified that as a matter of policy, the Ministry <sup>shall</sup> not give employment to a third son of the deceased on compassionate ground. They further plead that the family of the petitioner was not very big and the family of the deceased have already been given Rs.70,000/- approximately as terminal benefits. They further plead that the petitioner owned a house and also had

have cultivated land and 4-5 buffaloes. and he was not a indigent person. They have pleaded that only 4.5% of total of vacancies in a calendar year are allowed for appointment on compassionate grounds to the wards of deceased Government employee and that Sri R. Narain had been given employment finding him a fit person under the conditions available. Regarding others 3 persons whose services were regularised namely Harnam, Lokai and Durga, they were all senior to the petitioner. Sri R. Narain was the only son of his father.

3. The law is settled that the Tribunals do not act as appellate authorities in a matters like appointment on compassionate grounds to the needy and fit person. In the present case, the case of the applicant was duly processed by the employer on the basis of the various documents submitted by Sri Ishwar Nath, the petitioner. He had filled up the proforma for employment in which he has himself given the names of all the family members. (Annexure C.A.-1) in which he has mentioned his elder brother Sri Kailash Nath aged 32 years, and Sri Uma Nath aged 28 years are employees. The declaration has been signed by the petitioner <sup>and</sup> attested by the Manager-in-Charge of the Farm. The contention of the learned counsel for the petitioner appears to us to be far fetched to say that this document has been forged and prepared by the Manager himself. This very Manager has been recommending the name of the petitioner for appointment on compassionate ground and we see no reasons as to why an officer would go to the extent of forging a declaration which farm was infact submitted through him and recommending for employment on compassionate grounds. Even a certificate now submitted by

the petitioner obtained from the Local M.L.A. shows that Sri Kailash Nath aged about 45 years elder brother of the petitioner is employed with C.O.D. Kanpur and that other brother Uma Nath is working as a Labourer. The further contention that they are not supporting the remaining members of the family does not show that the facts considered by the employer, were wrongly considered. The Tribunal can in exceptional cases, where the order of an employer while denying employment on compassionate ground is passed take note of the fact, whether it is grossly, arbitrary, perverse or as to whether it is against the natural justice. In the present case, we find no such thing.

4. As per the petitioner, he remained in service with the respondents at the Military Farm till June, 1988 only, when his father died in service. He filed the petition on 09.6.1993 that is till 5 years had already elapsed, and that he filed a C.W.P. in the High Court was of his own choice and after the constitution of C.A.T. at Allahabad in the year 1986, the High Court and apparently had no jurisdiction to entertain the petition, it said so. Pursuing his remedy in a wrong forum could afford him a case to pray for condonation of delay in filing the O.A. before this Tribunal. The petitioner has chosen not to make any such prayer but, on the contrary in para no.3 of his petition has taken the plea that the application is within Limitation. That, counting from the date of death of his father in June, 1988 and thereafter from refusal of the respondents to provide him employment is definitely much beyond the statutory period of limitation. The petition is liable to be dismissed on this ground also. ....pg.5/-

5. The petitioner tried to argue before us that he was removed from the service on a promise that he would be given an employment on compassionate ground, that appears quite strange if, he was already in employment, there was no reason to first remove him and then employ him again on the same job. His employment on regular basis on compassionate ground could be considered even otherwise and contention does not appeal to reason.

6. For the foregoing reason, we find no merit in the petition and the same is, therefore, dismissed. There will be no order as to costs.

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Member (J)

  
Member (A)

/M.M./