

CENTRAL ADMINISTRATIVE TRIBUNAL    ALLAHABAD    BENCH  
ALLAHABAD.

Allahabad this the 27th day of August 1997.

Original Application no. 1497 of 1994.

Hon'ble Mr. S. Dayal, Administrative Member.

Om Prakash Singh, S/o Late Shri Muni Sharan Singh, r/o village Bhatwalia, P.O. Baruna, Distt. Buxar (Bihar) at present Local address is c/o Shri DD Singh r/o House no. 153/87/14 Kachchi Sadak, Daraganj, Allahabad.

... Applicant.

C/A Shri I.R. Singh

Versus

1. Chief Engineer Army Headquarter Lucknow Zone Lucknow.
2. Garrison Engineer (West) Army Headquarters Commander Works Engineers, Allahabad.
3. Union of India through its Deffence Secretary, New Delhi.

.... Respondents.

C/R Shri N.B. Singh

ORDER (Oral)

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has filed this application for issuance of a direction to the respondents to give compassionate appointment of the post of L.D.C within a fortnight. He has also seeks compensation of Rs. One Lakhs against respondents for inordinate delay in appointment. Cost of the application has also been prayed for.

3. The applicant claims that his father was working as L.D.C in the office of the Garrison Engineer (West) M.E.S., Allahabad and died in harness on 03.11.86, leaving behind him applicant, 2 other sons, a daughter and a widow. It is the case of the applicant that after the death of his father his family was left in indigent circumstances. The applicant applied for compassionate appointment but he ~~was~~ <sup>stated</sup> was not considered for the same for the reasons ~~said~~ as non availability of the post of L.D.C. The applicant was informed that there was proposal for placing his name in the waiting list for the post of L.D.C and that he ~~should~~ <sup>would</sup> be offered appointment in ~~his~~ <sup>his</sup> turn. The applicant is still waiting for his compassionate appointment. Hence this application.

4. Arguments of Shri I.R. Singh, learned counsel for the applicant and Shri S.K. Anwar, Additional Standing counsel in place of Shri N.B. Singh have been heard. During course of the arguments <sup>on the last occasion</sup> Shri P. Mathur, who had earlier appeared in this case as Additional Government Counsel and argued on behalf of the respondents, was asked to place the circular containing ~~eligibility~~ <sup>eligibility</sup> conditions for compassionate appointment before the Tribunal and he had sought time of one week to do so. The circular ~~has~~ <sup>has</sup>, however, ~~not been made~~ available in spite of passage of three weeks time since then.

5. Learned counsel for the applicant has referred to paragraphs 11 and 14 of CA filed by the respondents. Paragraphs 11 is accepted below:-

"That in reply to the contents of paragraph 4 (iii) and 4 (iv) of the petition it is stated that according to the record available in the office

the petitioner is the eldest son of Late Shri Munni Saran Singh. At the time when the Board of Officers met for assessing the suitability of the petitioner for the post of L.D.C., the applicant produced Matriculation certificate. It is, further, stated that the case of the Petitioner for appointment as Lower Division Clerk was submitted by the respondents no. 2 C.W.E. Allahabad vide letter dated 27.12.86 for consideration. Since the vacancies in grade of L.D.C. are limited, his case will be considered in his own turn. Presently his name appears at serial no. 7 of the waiting list."

The same position has been conferred in paragraph 14 which reads as follows:-

"That the contents of paragraph 4 (ix) of the petition are denied. There is no illegality malafide or arbitrariness on the part of the respondents and there is no violation of **Articles 14 and 16** of the Constitution of India. It is stated that the petitioner shall be given appointment on his turn according to the seniority in the list. It is, further, stated that as already stated above the petitioner was found suitable for the appointment on compassionate grounds by the Board of Officers but since there is no vacancy available therefore, he could be given appointment and as soon as a vacancy is available and his turn comes he will be given appointment."

6. It is clear from the <sup>above</sup> paragraphs of the CA filed by the respondents that the applicant has been found suitable for appointment ~~on~~ compassionate ground by Board of Officers but was to await appointment in his turn as he was placed on a waiting list.

7. Learned counsel for the respondents mentioned that the current law of compassionate appointment disentitled the



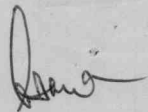
applicant for compassionate appointment, if there is any delay in making application for compassionate appointment. Learned counsel for the respondents can not ~~take~~ up this plea now after having found the applicant eligible for compassionate appointment and made him wait for his turn for the same. Learned counsel for the applicant referred the case of Smt. Sushma Gosai and others versus Union of India and others, 1989 vol 2 UPLBC 636. Learned counsel for the respondents has contended that this judgment is no longer good law because subsequent judgment of the Apex Court have laid down that any unreasonable delay would ~~be~~ prejudice ~~to~~ the claim of the applicant for compassionate appointment. I think learned counsel for the respondents has not interpreted the judgment of the Apex Court in the case of Smt. Sushma Gosain (Supra) correctly. The judgment merely lays down that in case the applicant is found suitable for compassionate appointment, the same shall be given to him without any loss of time on <sup>a</sup> superannuatary post. This ~~conclusion~~ <sup>is in consonance with the</sup> objectives of ~~the~~ compassionate appointment. Compassionate appointment is given to ~~the~~ <sup>an</sup> indigent family due to the death of bread earner in the circumstances which require that the family should be given immediate assistance. The process of making such family wait for their turn to be reached in getting compassionate appointment would frustrate <sup>the</sup> very objective of compassionate appointment to the applicants.

8. In view of the above the respondents are directed to consider the appointment of the applicant on the post of L.D.C. on compassionate basis within 2 months of the date of receipt of copy of this order. As regards the claim for compensation, the same is not allowed as this is not consistent with the purpose for which the respondents have been asked

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to give compassionate appointment to the applicant.

9. There shall be no order as to costs.

  
Member-A

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