

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1645 OF 1999
ALLAHABAD THIS THE 9TH DAY OF MAY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Rais Ahmad,
S/o Late Abdul Rauf,
R/o 79 Sujatganj,
Post Control Ordinance Depot,
District-Kanpur Nagar.

.....Applicant

(By Advocate Shri B.N. Singh)
Shri L.M. Singh)

Versus

1. The Union of India,
through the Secretary,
Ministry of Defence,
Government of India,
New Delhi.

2. Commandant,
Central Ordinance Depot,
Kanpur.

.....Respondents

(By Advocate Shri R.C. Joshi)

ORDER

By this O.A. applicant has sought quashing of the order dated 21.09.1999 whereby his case for compassionate appointment has been rejected (Page 10). He has further sought a direction to the respondents to give appointment to the applicant against any class III or class IV post from the date when deceased employee died.



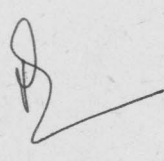
2. The brief facts, as narrated by the applicant, are that mother of applicant Late Tahrin Nisha was a permanent employee of respondent no.2 and was working in Mazdoor yard. She died on 12.01.1997 while in harness. Applicant's father had already died during the life time of his mother, therefore, after her death applicant moved an application on 13.03.1997 for grant of compassionate appointment. Vide letter dated 03.03.12.1997 applicant was informed that due to limited number of vacancies, applicant was not found to be selected by the Board of Officers. However, he may give application again for re-consideration (Annexure A-2). Thereafter applicant again applied for appointment but once again vide letter dated 15.07.1998 the same reply was given. By the impugned order dated 21.09.1999 applicant had once again ^{been} informed that his case was considered by the Board of Officers on 24.08.1998 but he could not be selected due to relative hardship of more deserving cases (Annexure A-4). It is submitted by the applicant that he is the elder son of deceased and he is unemployed, and he has the liability of one unmarried sister also and he has also a daughter and a son who were all dependent on the mother's salary. Therefore, after her death they are in a very bad shape and need to be given compassionate appointment. Applicant has also submitted that Board of Officers have given appointment to the dependents of the deceased employees whose mother or other dependents have received sufficient amount in respect of terminal benefits and they are also getting regularly sufficient amount as family pension but he has been discriminated against. Therefore, he had no other option but to seek the relief from this court.



3. Respondents have opposed this O.A. and have submitted that applicant's case was duly considered by the Board of Officers but they did not recommend his case in view of limited number of vacancies and more deserving cases. They have also submitted that Board of Officers acts in accordance with the policy laid down by the department for the purpose and there was no scope for discrimination. They have, however, denied the allegation of malafide or discrimination.

4. I have heard both the counsel and perused the pleadings as well.

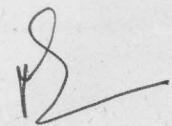
5. Applicant's counsel had not been able to point out any case by name to demonstrate the discrimination. He has simply made a bad statement that there have been cases where compassionate appointment was granted inspite of the fact that they were getting pensionary benefits etc. It is seen that respondents have considered the cases of all applicants as per the laid down criteria where under marks are given for different headings and then lists are prepared in accordance with merit which does not leave any scope for discrimination. Therefore, in the absence of any specific instance, the contention of the applicant that he has been discriminated against, is not sustainable in law. It is settled by now that compassionate appointment can be given only to the extent of 5% limited vacancies. So naturally more persons cannot get the compassionate appointment and only such of the persons can be recommended for grant of compassionate appointment, whose cases are within the limited number of vacancies. The learned counsel for the applicant submitted that respondents have relied on the policy dated



30.07.1999 while his mother had died on 1997, therefore, in this case this policy cannot be applied. The guidelines relied on by the respondents are based on a scientific method and applicant's counsel has not stated as to if these guidelines were not applicable in his case, then which guidelines would have been applicable and how his case would be covered under those guidelines, and how any prejudice is caused to him in case these guidelines are applied. Since no prejudice is shown to have been caused to the applicant his contention is rejected. Even otherwise nobody can claim compassionate appointment as a matter of right. A person only has a right of consideration. The very fact that ~~his~~ case was considered as per the guidelines, there can't be any scope for discrimination as merit is prepared on scientific method.

I am satisfied that respondents have considered the case of applicant in accordance with the laid down procedure, therefore, it does not call for any interference.. In any case mother had not left behind much liability as admittedly applicant was already married and his family cannot be said to be the responsibility of deceased employee. If there were more deserving candidates then the applicant, definitely applicant cannot be given preference over them ~~not~~ can their cases be ignored totally.

6. In view of the above discussions, this O.A. is devoid of any merit. The same is accordingly dismissed with no order as to costs.



Member-J

/Neelam/