

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 1330 of 2000

....., this the /<sup>8</sup><sup>th</sup> day of January, 2008

C O R A M :

HON'BLE DR. K B S. RAJAN, JUDICIAL MEMBER  
HON'BLE MR. K. S. MENON, ADMINISTRATIVE MEMBER

Irfan Haider,  
S/o. Late Shri Abbas Haider,  
Resident of R-24, New Colony  
Quilla Bareilly (U.P.),  
Presently working as Mazdoor  
in the Office of the GE (I) AF  
Izatnagar, Bareilly (U.P.) ... Applicant.

(By Advocate Mr. Vinod Kumar)

v e r s u s

1. Union of India through the  
Defence Secretary, Ministry  
of Defence, Govt. of India,  
South Block, DHQ P.O.,  
New Delhi : 110 001
2. The Engineer-in-Chief,  
Engineer-in-Chief Branch AHQ,  
Kashmir House, Rajaji Marg,  
New Delhi : 110 001
3. The Chief Engineer,  
Central Command, Lucknow.
4. The Chief Engineer,  
Bareilly Zone, Sarvatra Bhawan,  
Station Road, Bareilly Cantt.: 243 001
5. The Chief Engineer, Air Force,  
Allahabad.
6. The Commander Works Engineer,  
Station Road, Bareilly Cantt.
7. The Garrison Engineer (I) AF,  
Izatnagar, Bareilly (U.P.) ... Respondents.

(By Advocate Shri S. Singh)

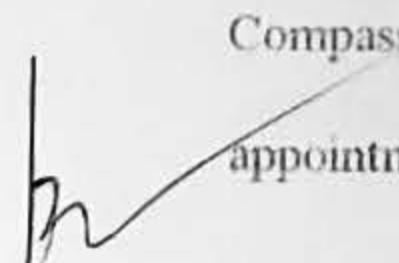


O R D E R  
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant's father late Abbas Haider, a mazdoor, died while in service and the applicant applied for compassionate appointment under the relevant scheme. Though admittedly, he had requisite qualifications as for appointment to the post of LDC, he was not, due to non availability of vacancy, offered the appointment as LDC but was asked to give his consent for appointment as Mazdoor, which the applicant readily accepted and thus, he came to be appointed as Mazdoor in 1995. When in 2000 the applicant was asked to appear for a test for selection under direct recruitment quota of LDC, he chose not to appear. The applicant claims, through this OA, his appointment as LDC from 1995 or in the alternative, as LDC from 2000, as he had the requisite qualifications right from the beginning.

2. Respondents have contested the OA. According to them, the applicant gave his consent to join as Mazdoor, as at the relevant point of time vacancy existed only for that post. Once he had accepted the said post, opportunity for compassionate appointment having been consumed, there is no scope for converting the appointment as one of another post, as claimed by the applicant. As the applicant had requisite qualification for post of LDC, he was later given an opportunity to appear in a test held for selection under direct recruitment quota, which the applicant had not availed of. As such, the applicant is not entitled to any such appointment as claimed by him.

3. Pleadings were completed and the counsel for the parties heard. Compassionate appointment is not a right. The scheme of compassionate appointment is meant to tide over the immediate financial crisis arisen due to the

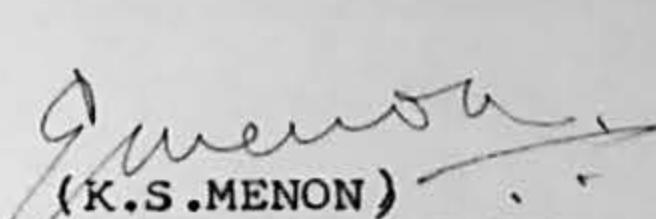


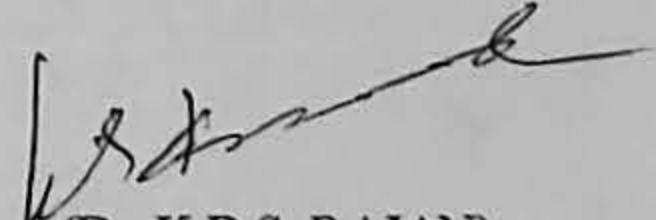
demise of the bread winner of the family and the respondents were right in offering the available post to the applicant. The applicant too had accepted the same and thus, purpose of compassionate appointment fulfilled. It was for the applicant thereafter to try of his own merit to move further in the ladder of his service career, along with others and he was, in fact, given an opportunity when in the year 2000, he was asked to appear for typing test for selection to the post of LDC. The applicant had chosen not to appear for the same but claims that he should be considered under the compassionate Appointment scheme for the post of LDC as vacancy was available and the applicant had the qualification for the same. The Apex Court has, in the case of I.G. (Karmik) and Others vs Prahalad Mani Tripathi, (2007) 2 SCC (L&S) 417, has held as under:-

"The respondent accepted the post of Peon without any demur whatsoever. He, therefore, upon obtaining appointment in a lower post could not have been permitted to turn around and contend that he was entitled to a higher post although not eligible therefor.....(Pare 12) "

4. In view of the above clear position, the claim of the applicant cannot be allowed. Counsel for the applicant submitted that some direction be given to the respondents to consider the case of the applicant for the post of LDC. While his keen interest in prosecuting the case of the applicant is well appreciated, as there is absolutely no scope, the request of the counsel for the applicant cannot be allowed.

5. The OA being devoid of merits, there is no option but to reject the OA.  
No costs.

  
(K.S.MENON)  
ADMINISTRATIVE MEMBER

  
(Dr. K B S RAJAN)  
JUDICIAL MEMBER