

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

Original Application No. 1237 of 2002.

this the 26th day of July 2004.

HON'BLE MR. JUSTICE S.R. SINGH, V.C.

Jassi Ram, S/o Sri Dhani Ram, R/o Village Tumarki, post
Shahbad, District Hardoi.

Applicant.

By Advocate : Sri I.P. Srivastava.

Versus.

1. Union of India through the Secretary, Ministry of
Defence, New Delhi.
2. Chief Engineer, Bareilly zone Sarvatra Bhawan,
Station Road, Bareilly Cantt.
3. Commander Works Engineer, Station Road, Bareilly
Cantt.
4. Assistant Garrison Engineer (I), Shahjahanpur.

Respondents.

By Advocate : Sri Saumitra Singh.

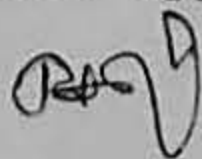
ORDER

The applicant's father Dhani Ram was employed under the respondents on the post of Mate (Electrician). He died in harness. The applicant, then, staked his claim for compassionate appointment by letter no. 1438/1/2054/EIC(2) dated 16.8.1997. The applicant was appointed on the post of Safaiwala in the office of Garrison Engineer, Shahjahanpur. It appears that the applicant, who belonged to other Backward Classes being 'Kahar' by caste, moved an application for change of job (Mazdoor) inasmuch as job of Safaiwala was not a traditional job of the members of the society other than who belonging to scheduled Caste (Mehter by caste). By order dated 14.9.1998

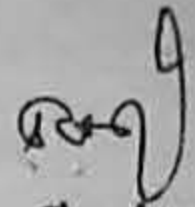
R.S.

the appointment of the applicant on the post of Safaiwala (G.I.) came to be cancelled pending "further consideration of his case for the post of Mazdoor." The applicant has been waiting appointment on the post of Mazdoor and by order dated 4.7.2002, his claim for compassionate appointment has been rejected due to non-availability of sufficient vacancy within 5% quota, besides the ground that the need for immediate assistance by way of compassionate employment to tide-over the emergency and crisis was lacking in the case of the applicant as his father had died on 4.9.1995 i.e. seven years ago. Apart from that, it is also stated in the impugned order that the deceased family had received Rs.1.18 lacs as terminal benefits and at present they are in receipt of monthly pension @ Rs.1275/- per month plus dearness relief of Rs. 624/- and the deceased family also owns the landed property.

2. Having heard the counsel for the parties, I am of the view that the terminal benefits ~~was~~² ought not to have been taken into consideration for the purpose of deciding the applicant's claim for compassionate appointment. The respondents were also not justified in rejecting the claim of the applicant on the ground of delay² ~~in wait 2~~ for no fault of the applicant, he was earlier offered the job of Safaiwala - a job traditionally performed by a Sweeper. The applicant had accordingly requested for the change of job. In the circumstances, therefore, the orders dated 4.7.2002 and 14.9.1998 are quashed. The respondents are directed to re-consider the applicant for appointment to the post of Mazdoor and in the meantime to permit him to work on the post of Safaiwala till he is accommodated on the post of Mazdoor. The respondents shall endeavour to complete the exercise for appointment of the applicant



on the post of Mazdoor within a period of three months from the date of receipt of copy of this order. parties are directed to bear their own costs.



Vice Chairman

GIRISH/-