

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 14th day of Mar 2006.

Original Application No. 1255 of 2002.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Phool Chand Pal,
Son of Late Moti Lal Pal,
R/O 179, Uttari Lokpur, Naini,
Allahabad.

..... .Applicant

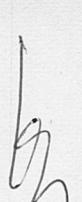
By Adv: Sri L. M. Singh

V E R S U S

1. Union of India through the Secretary,
Ministry of Defence, Government of India,
NEW DELHI.
2. Chief Engineer,
Engineering Branch, Army Head Quarter,
A.H.Q. D.H.Q., PO.-Kasmiri House,
New Delhi.
3. Chief Engineer,
Shillong Zone, SE Falls,
Shillong.
4. Chief Engineer, Head Quarter,
Eastern Command, Engineering Branch,
Fort William, Calcutta-21.
5. Garrison Engineer,
859, Engineering Works Section,
C/O 99 APO.
6. Commander Works Engineer (CWE)
Tezpur.

..... .Respondents

By Adv: Sri Gyan Prakash.



O R D E R

By K. B. S. Rajan, Member-J

It is by now sixteen years that the father of the applicant died and the applicant, having approached the Tribunal in 1999 and 2000 has, like a patient on a monument, waited for a favourable response for compassionate appointment on the strength of two orders of the Tribunal and having only got disappointed, has once again moved the Tribunal for justice. The faith of the applicant in judiciary and his sanguine hope that he would be rendered justice is manifest in his perseverance, undaunted by the elongation of time in his getting justice.

2. The facts capsule as could be sculled out from list of dates would suffice.

1.	03.03.1989	Father of the Petitioner died in harness.
2.	24.2.1995	Mother of the petitioner was intimated about the death of the deceased employee.
3.	13.03.1995	Mother of the applicant made application for about compassionate appointment of the applicant.
4.	10.06.1996	Respondent no.5 send the application of the applicant to the respondent no.6 alongwith connected documents and applicant was also intimated about the same.
5.	15.09.1999	Being aggrieved petitioner rushed to this Tribunal by filing Original Application No.1039/99 and this Court directed the respondents to take decision and pass reasoned and speaking order on the application of the applicant dated 29.12.1995.

6.	03.12.1999	Respondent No.5 intimated the petitioner that his name has been placed in the waiting list and petitioner's position is the merit list was at Sl. No.52 and presently Compassionate appointment applications of the year 1992 are being considered as per seniority.
7.		O.A. No.596/2002 was filed by the petitioner.
8.		Counter Affidavit filed and in para 26 respondents has stated that the applicant will be given employment as per his seniority list.

3. The following are the two orders passed by the Tribunal:

- (a) OA No.1039/99 decided on 15-09-1999 with a direction to the respondents to consider the pending representation dated 10th June, 1996 and pass a reasoned and speaking order.
- (b) OA 596/2000 decided on 07-11-2000 with a direction to the respondents to consider the case of the applicant without discrimination.

4. By communication dated 06-12-1999 the applicant was informed that his case was registered and his serial No. was 52. By then, Compassionate appointment cases of 1992 were being processed and the case of the applicant would be taken up on its turn. On 23rd Feb. 2000, the respondents had rejected the case of the applicant stating that the death of the father of the applicant had taken place in 1989 and the applicant had applied for compassionate appointment only in 1995. It would be



curious to note that in their counter filed in September 2000, the respondents have on a sworn statement, stated vide para 23 thereof that applications of all the Dying in Harness applicants are placed on seniority list as per their application seniority and as and when vacancy is being released by Government the appointing authority is employing the above said applicants. This would mean that the earlier rejection letter dated 23-02-2000 got eclipsed in the above narration in the Counter Affidavit. However, by order dated 14/03/2002, the case of the applicant was rejected. Hence this OA.

5. Respondents have contested the case. According to them, since the applicant's father died in 1989 and the applicant had filed in 1995 the case of the applicant cannot be considered.

6. It would be seen that earlier, in 1996 all the formalities had been got fulfilled by the respondents, by addressing communication to the applicant. Again, in 1999 his case was registered according to 'application seniority' and he was kept in serial No. 52. At that time too there was no whisper about the delay in applying. In September, 2000 when the counter affidavit was filed, then also there was no whisper about the same. As such, the reason given for rejection of the case of the



applicant does not appeal to logic. Again, the applicant has averred that the fact of the demise of his father was known only years after such demise. This was reflected in her first representation dated 13-03-1995 and all other actions, such as calling for other particulars were only in pursuance of the aforesaid letter dated 13-03-1995. As such, it can be safely assumed that any delay in filing the application has been condoned by the respondents.

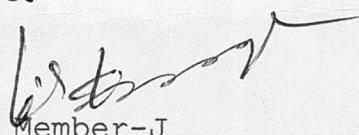
7. The applicant had, some how, or the other, managed to live and study to some extent and he has been aspiring for a post to make his livelihood. The respondents do not seem to have considered the case at all on merit and their rejection was purely on the ground of delay in applying. At least once the application ought to have been considered on merit. It would have been a different matter, had the applicant been informed in 1995 itself about the delay, in which event, perhaps he would have tried for some alternate employment. Having progressed his case, having given a seniority No. to his application, if at the last moment, without considering the application on merit, if the respondents reject the case on the ground of delay in filing the application, the same is, to term in the mildest term, 'arbitrary'.



8. The applicant has also filed written submission and annexed certain decisions of this Bench and other High Courts. These cases do support the case of the applicant to some extent. The decisions are as under:-

- a. **Order dated 20.04.2005 of CAT, Allahabad Bench in case of Jeewal Lal Vs. Union of India & Ors.**
- b. **2003 (1) ATJ 376, T. Swamy Das Vs. Union of India & Ors**
- c. **2003 (99) FLR 376, Km. Pinki Chauhan Vs. The Managing Director, Punjab National Bank, New Delhi & Others.**
- d. **2003 (1) ESC (All) 636, Jagwati Devi Vs. Union of India & Others**

9. In view of the above, the respondents are directed to consider the case of the applicant purely on merit in the next Meeting that may be convened to consider the pending cases of compassionate appointment and in case the applicant comes within the merit, on the basis of the prescribed norms, he may be considered for compassionate appointment, if need be by relaxation of the Rules relating to age, as the applicant by now may be over aged. No opinion on merit is expressed through this order. In case the applicant does not come within the merit, by a speaking and detailed order, the same be informed to the applicant. No cost. O.A is disposed off.



Member-J

/pc/