

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1401 of 2002.

Allahabad, this the 8th day of Sept., 2004.

Hon'ble Mr. A.K.Bhatnagar, J.M.

Mohd. Israr Ahmed,
S/o Late Samiullah,
R/o Village Jalalpur
Post Soraon,
District - Allahabad.

.....Applicant.

(By Advocate : Shri Vikas Sahai)

Versus

1. Union of India,
through its Secretary,
Ministry of Defence,
New Delhi.
2. D.G.O.S. (os-8c) Army Head Quarters,
DHQ PO New Delhi.
3. Commandent,
Headquarters,
Central Command,
Lucknow.
4. Commandent,
Ordinance Depot,
Allahabad Fort,
Allahabad.

.....Respondents.

(By Advocate : Shri P.D. Tripathi)

ORDER

By Hon'ble Mr. A.K. Bhatnagar, J.M. :

By this OA filed under Section 19 of A.T. Act, 1985,
the applicant has prayed for quashing the impugned order
dated 13.6.2002 passed by respondent No.4 with a further
direction to respondents to appoint the applicant on the
compassionate grounds forthwith.

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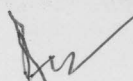
2. The case of the applicant in brief is that the father of the applicant while serving as Tent Mentor in the respondent's establishment expired on 30.4.1998 leaving behind his wife, five sons and an unmarried daughter. As per Annexure-3, three sons were between the age 30-38 years and were unemployed. The mother of the applicant moved an application for compassionate appointment for her 5th son i.e. the applicant on 26.8.1998 before respondent No.4 for appointment on compassionate ground. Pursuant to which the applicant was asked to submit the forms and required documents. On 14.9.1999 the applicant's mother was asked to file another format before the respondents by 25.10.1999. On 27.3.2000 the applicant's mother moved another application for considering the case of the applicant for compassionate appointment which was rejected in time by the respondents vide order dated 2.2.2001 (Annexure-9) with the findings that the applicant's case could not find its place in the merit in the face of more deserving cases and limited number of vacancies at the juncture. Vide letter dated 18.3.2002 the applicant's case was again examined and rejected with the findings that the appointment has to be granted within a year from the date of death of Govt. servant. As the case of the applicant is more than three years and 10 months old so the case is closed. The applicant again applied vide application dated 4.6.2002 and the respondents finally rejected the claim of the applicant for compassionate appointment finally after considering it three times on 13.6.2002. Hence he filed this OA.

3. Learned counsel for the applicant submitted that the order dated 13.6.2002 by which the application of the applicant

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has been rejected, is illegal, arbitrary and suffers from manifest error of law. He further submitted that the impugned order dated 13.6.2002 has been passed against its own department circular dated 19.10.1998 by which five years time was provided for making compassionate appointment. It was finally submitted that the applicant's mother is getting a small amount of pension which is not sufficient to maintain the family consisting of 07 members, who all are unemployed. Learned counsel for the applicant placed reliance in the case of Dhiraj Kumar Dixit Vs. General Manager (Personal), U.C.O. Bank, Calcutta & ors. reported in (2003) 1 UPLBEC 20).

4. Resisting the claim of the applicant, the respondents filed the counter which was followed by a rejoinder. Inviting attention on para 14 of the counter, the respondent's counsel submitted that the third application submitted by the mother of the applicant for appointment of the applicant was also considered by the Board of Officer in accordance with rules and instructions on the subject keeping in mind the limited number of vacancies for the purpose and it was again rejected and the decision was communicated to the applicant vide office letter dated 27.1.2001. It was further contended that as per the Annexure-CA-II filed by the respondents i.e. Office Memorandum dated 3.12.1999, the case for compassionate appointment in respect of other really deserving cases should be considered by the committee within a year from the death of the deceased employee. Learned counsel further invited my attention on Annexure-I letter dated 13.6.2002 which is impugned by the applicant in this OA and submitted that this is not at all an order of rejection



which the applicant has sought to be quashed in the relief clause of the OA but it is an intimation to one Shri Dharm Raj Singh Patel Hon'ble Member Lok Sabha by the respondents under intimation to the applicant's mother.

5. I have heard the counsel for the parties and perused the records available before me.

6. This is an admitted fact that the case of the applicant was considered by the respondents three times as per the policy of the department. I have also gone through Annexure-I which is in fact an intimation letter to one Shri Dharm Raj Singh Patel Hon'ble Member Lok Sabha by the respondents which in no way can be termed as a rejection order. I have also gone through Para 9 of the counter affidavit which clearly shows that after the death of the father of the applicant the family was paid total amount of Rs.232735/- and apart from this the family pension of Rs.1825/- per month which has been sanctioned to the mother of the applicant.

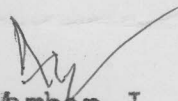
7. I have gone through the case law cited by the applicant's counsel and I find that the above case is not helpful to the applicant in this case as the facts and circumstances of this case are different than the case cited by the applicant.

8. In view of the aforesaid discussion and after carefully considering the submissions made by the counsel for the parties, I am of the view that the case of the applicant lacks in merit and find no illegality in the orders passed by the department which requires any

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intervention from court.

9. Accordingly, the OA is dismissed as lacking in merit. No order as to costs.


Member-J

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