

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

original Application No. 1451 of 2002.

this the 23 day of March 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Vijay Kumar Batham, S/o late Raja Ram, R/o Civil Lines,  
Bagdiya Ghat, Fatehgarh, District Farrukhabad.

Applicant.

By Advocate : Sri K.K. Misra (Absent)

Versus.

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. Chief Engineer (EIC-II), Headquarters, Central Command, Lucknow.
3. Asstt. Garrison Engineer,-I, M.E.S., Fatehgarh, District Farrukhabad.
4. Administrative Officer/Commander Works Engineer, Central Works Engineer (C.W.E.), MES, Kanpur.

Respondents.

By Advocate : Sri R.C. Joshi.

O R D E R

None for the applicant even in the revised call.

The case is being decided on merits by attracting Rule 15(1) of CAT (procedure) Rules, 1987.

2. By this O.A. applicant has challenged the order dated 1.4.2002 whereby his claim for compassionate appointment has been rejected (page 37). He has further sought a direction to the respondents to provide suitable appointment to the petitioner under the dying in harness Rules on compassionate grounds.

3. It is submitted by the applicant that his father late Sri Raja Ram died on 28.7.96 while he was working as Mate. The mother of the applicant gave an application

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for giving compassionate appointment to his son namely Vijay Kumar as sole bread earner in the family had died leaving behind one widow, one son and three married daughters. It is submitted by the applicant that they have no agricultural land in their name, nor any source of income is there, therefore, it is a fit case for grant of compassionate appointment. Applicant has submitted that while deciding his case for compassionate appointment, respondents have not considered the status, ~~background~~ back ground and economic condition of the family, therefore, the impugned order is liable to be quashed and set-aside. He has, thus, sought the relief(s) as mentioned above.

4. Respondents, on the other hand, have submitted that compassionate appointment cannot be sought as a matter of right and since his case had already been considered and not found fit for compassionate appointment, it calls for no interference. They have annexed the judgments in some other O.A.s and the instructions with regard to compassionate appointment to show that applicant's case has been considered in accordance with the such instructions.

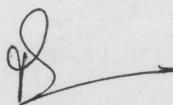
5. I have heard respondents' counsel and perused the pleadings available on record.

6. Perusal of para 4 of the O.A. shows that the deceased employee had left behind only his widow and one son as liability all the three daughters were already married. The respondents have to see whether in the given circumstances the family members can in total indigent or whether family can manage the affairs with the given terminal benefits and the assets which are left behind or not. by the deceased employee. The law is well settled by now that compassionate appointment cannot be sought as a matter of right, nor as a line of succession. On the



contrary, it can be granted only in exceptional circum.-stances where due to sudden death of the sole bread earner, the family members are left in total lurch at a young age and the children have no means to survive. while determining this, respondents have to keep in mind the number of dependents left by the deceased employee, their age, status and liabilities of education and marriage etc. In this case, admittedly, all the three daughters were already married so in effect, there was only one widow and one son. The family has been given the sufficient amount by way of terminal benefits and they were also getting family pension of Rs. 1720 plus D.A. In these circumstances, naturally, it cannot be said that the family was in indigent condition, <sup>as even otherwise</sup> as per the guidelines issued by the DOP&T, compassionate appointment can be given only to the extent of 5% limited vacancies from amongst direct recruitment in a year so naturally, it has to be given only in the most deserving cases. If the respondents have rejected the case of the applicant because his case does not come within the limited available 5% vacancies meant for compassionate appointment, no irregularity can be said to be found in the orders passed by the respondents because applicant cannot be given preference over more deserving cases simply because he is unemployed. The law is well settled that a person has a right only for consideration, so long his case has been considered by the Board of Officers and they have found that this case is not one of indigent condition, surely it does not call for any interference.

7. In view of the above discussion, this O.A. is dismissed with no order as to costs.

  
MEMBER (J)

GIRISH/-