

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.885 OF 2002
ALLAHABAD THIS THE 27TH DAY OF MAY,2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Amar Nath Shukla,
S/o Late Dinesh Kumar Shukla,
R/o Ajad Nagar-Bhatta Gaon,
District-Jhansi.Applicant
(By Advocate Shri Islam Ahmad)

Versus

1. Union of India,
through its Defence Secretary,
New Delhi.
2. The Director General of Medical Services (Army)
Adjutant General's Branch.
Army Headquarters-'2' Block,
New Delhi.
3. The Company Commandant-
Military Hospital,
Jhansi.Respondents
(By Advocate Shri N.C. Tripathi)

ORDER

By this O.A. applicant has sought quashing of the
order dated 05.08.2002 and a further direction to the
respondents to give compassionate appointment to the
applicant on a suitable post within one month.



2. It is submitted by the applicant that his father Late Dinesh Kumar Shukla was a regular class IV employee posted at Military Hospital, Jhansi where he died in harness on 30.08.1997. He left behind four daughters, three sons and the widow. Since there was no landed property nor any other source of livelihood, therefore, she applied for giving compassionate appointment to any of her sons (Annexure-1). Thereafter vide letter dated 30.08.2000 respondents asked the applicant to furnish ~~letter~~ ^{way} ~~details~~ ^{to give} ~~circular~~ details, so that the case ~~should~~ be processed accordingly. The information was ~~given~~ ^{letter} by the applicant vide ~~circular~~ dated 07.09.2000 but vide letter dated 16.08.2001 respondents again asked further details from the applicant which ~~to~~ was furnished by the applicant (Annexure-5), but vide order dated 05.08.2002 his case has been rejected on the ground that in the comparative merit list applicant's name is figured at serial no.70 having obtained 60 points whereas the total number of posts available for compassionate appointment was only ten. Therefore, persons upto serial no.10 in the merit list were offered appointment subject to the fulfilment of ~~the~~ other conditions and applicant was informed that he cannot be granted any compassionate appointment. It is this order which has been challenged by the applicant in the present O.A. on the ground that deceased employee had left behind such a large family who were all unemployed and since there was no Pakka House or landed property it was a fit case where compassionate appointment ought to have been granted to the applicant.



3. I have heard the applicant's counsel and perused the pleadings as well.

4. The law on the question of compassionate appointment is well settled by now. The Hon'ble Supreme Court has repeatedly held that compassionate appointment cannot be sought as a matter of right or as a line of succession. On the contrary compassionate appointment can be granted only in exceptional circumstances where the family is in total indigent condition and is not able to survive after the sudden death of the deceased employee who was the sole bread earner in the family. It has also been held by the Hon'ble Supreme Court that Tribunal cannot give any direction to appoint any individual on compassionate grounds because these aspects are to be decided by the competent authority, keeping in view the various factors and all that the Tribunal is to see is whether reasoning given by the respondents in rejecting the case is valid or is totally arbitrary or unjustified. In case an individual has not been considered for compassionate appointment or the reasoning is found to be illegal, at best Tribunal can give a direction to the respondents to re-consider the case of the applicant. In the instant case, it is seen that respondents have adopted a scientific method for considering the case of all those persons who applied for compassionate appointment and marks are allotted to them on the basis of information provided by the applicant and verified by the department. On the basis of total marks received by each candidates, a merit list was prepared and out of this merit list those who came within the limited 5% of vacancies meant for compassionate



appointment
were offered the appointment.

5. The applicant was at serial no. 70 of the merit list as explained by the respondents whereas the sanctioned posts for compassionate appointment was only 10, meaning thereby that he did not come within the limited number of vacancies earmarked for compassionate appointment and there would still ^{be} 60 persons above him who also had applied for compassionate appointment, meaning thereby that there were persons whose cases were more deserving than the applicant but ^{even} _{they} could ~~also~~ not be given appointment for want of vacancy.

6. In view of this we cannot give any direction to the respondents to give appointment to the applicant by ignoring all those 60 persons who are above him already. Since respondents have offered the appointment on the basis of this scientific method adopted by them, I found no illegality in the order passed by the respondents.

7. Accordingly, the O.A. being devoid of merit and is dismissed at the admission stage itself with no order as to costs.


Member-J

/Neelam/