

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 1151 of 2003.

Allahabad this the 29th day of January 2004.

Hon'ble Mrs. Meera Chhibber, Member-3.

1. Padam Singh
son of late Hari Singh
Resident of Village Chandanpur,
Post Nalhera Juggar, District Saharanpur.
2. Phool Mati widow of Hari Singh resident of Village
Chandanpur, Post Nalhera
Juggar, District Saharanpur.

.....Applicants.

(By Advocates : Sri Prakash Chandra
Sri V Khandelwal)

Versus

1. The Union of India
through the Secretary
Ministry of Human Resource and Development
New Delhi.
2. The Surveyor General Survey of India,
Department Hati Barkalan, Dehradun.
3. The Director (North Circle) Survey of India
Department, Karanpur, Dehradun.
4. Prabhari Adhikari No-1 party,
Survey of India Department 6 Block,
Hathi Barkalan, Dehradun.

.....Respondents.

(By Advocate : Sri R.C. Joshi)

O_R_D_E_R

By this O.A. applicant has sought the following reliefs:-

- (i) It is most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the impugned order dated 07.08.2003 (Annexure No.1 to compilation I passed by the Director (North Circle) Survey of India Department, Karanpur, Dehradun (Respondent No.3)

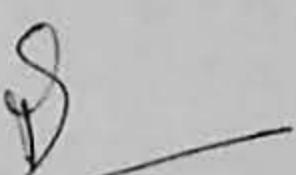
B

(ii) It is further prayed that this Hon'ble Tribunal may be pleased to direct the respondents to appoint the applicant No.1 on compassionate grounds.

(iii) to pass any such further order which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the present case.

2. It is submitted by the applicant that applicant's father Hari Singh was working as "Plant Tabular" Grade II Senior, When he died on 19.03.1997 leaving behind one widow, 3 sons, one unmarried daughter and one married daughter. Since the adult sons of deceased were residing separately alongwith their family and they are also unemployed, Applicants moved ~~and~~ applications dated 17.12.1999 and 16.05.2001 requesting therein to grant compassionate appointment to applicant No.1. The other son had ~~also~~ given their no objection. Applicant is a graduate but since there was financial hardship in the family, he was even prepared to work as Class-IVth employee.

3. Grievance of the applicant in this case is, that ultimately their claim has been rejected without giving them any opportunity vide order dated 17.10.2002 (Annexure-14). The said order was challenged by the applicant in O.A. No.99 of 2003, which was set aside by the Tribunal in its order dated 07.05.2003 with direction to ^{the} respondents to pass a reasoned order within a period of 3 months (Annexure-15). It is submitted by the applicant that once again respondents have rejected the claim of the applicants by a non-speaking order dated 07.08.2003 (Annexure A-I). It is submitted by the applicant that in case no post is available, respondents ought to have created supernumerary post to accommodate the applicant. He has further submitted that no details of other candidates have been given to him which show that he is lower in the merit than the other candidates.



// 3 //

4. Counsel for the applicant further submitted that respondents have only taken the assets left by the deceased into consideration while ignoring the liabilities namely widow, one unmarried daughter and unmarried son. He has further submitted that amount of Rs. 3,69,171/- was ~~partitioned~~^{divided} among the family members and dependents are left with only half of the said amount. Moreover, since his father was a heart patient, ~~he had~~^{he is} hospitalised for several months which itself entailed huge expenses, making the applicant ~~take~~^{to} loan from the relatives as well as money lenders on heavy interest. Therefore, whatever amount was received has been spent in repaying the said loan. In these circumstances, he submitted that it is a fit case where applicant should have been granted the compassionate appointment.

5. I have heard both the counsel and perused the pleadings as well.

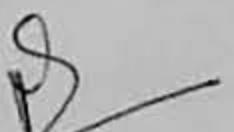
6. The order dated 07.08.2003 is a detailed order which shows that in the year 2001, there were 72 cases of compassionate appointment including the applicant whereas the vacancies available were only 29 for compassionate appointment. A committee was constituted, which had gone through each and every case sympathetically in the light of guidelines issued by DOP & T's O.M. dated 09.10.1998 and 22.06.2001 and kept in mind following criteria for considering the most deserving cases for appointment on compassionate grounds:

"The amount received by the family and the liabilities left behind by the deceased employee.

Age of deceased Govt. Servant and the period of his service.

Number and age of dependents family members etc. etc. "

7. As far as the applicant's case ~~was~~^{is} considered, it was seen



that family had received an amount of Rs.3,69,171/-, he had already rendered 32 years of service and had left behind one wife, one son and one unmarried daughter as dependents, as other two sons were already married and living separately. Therefore, committee came to the conclusion that his case could not come within the 5% limited vacancies meant for compassionate appointment as there were more deserving cases than the applicant.

8. The law on the question of compassionate appointment is well settled by now as Hon'ble Supreme Court has repeatedly held that nobody can claim compassionate appointment either as a matter of right or as a line of succession. On the contrary compassionate appointment can be given only in exceptional circumstances where after the death of the sole bread earner in the family, ^{Hon'ble} the dependents are left in a ~~distress~~ condition and there is a financial crunch in the house, which needs immediate assistance from the department. It is also held by the Hon'ble Supreme Court that courts cannot give direction to the respondents to give compassionate appointment to an individual and at best can remit ^{the matter is} back to the authorities for reconsidering the matter in case the same has not been considered properly by the authorities. In the instant case, respondents have already considered the case of applicants and if there were more deserving cases than the applicant naturally preference had to be given to them as against applicant. Moreover, the law ~~has~~ ^{is} also well settled that no direction can be given by the Tribunal to create supernumerary post for giving compassionate appointment as held by Hon'ble Supreme Court in the case of HINDUSTAN AERONATICS VS. SMT. A RADHIKA THERU reported in 1996 SCC (L & S) 1427, HINDUSTAN ROAD CORPORATION VS. DINESH KUMAR and in other case reported in JT 1996(5) 319. Since there were better case which fell within 5% limited vacancies meant for compassionate appointment, naturally no direction can be given to the respondents

// 5 //

to give appointment to the applicants by ignoring those cases.

9. In view of the above discussion, I find no illegality in the orders passed by the respondents. The D.A. is accordingly dismissed with no order as to costs.



Member (J)

shukla/-