

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1436 of 2003

Thurs day, this the 8th day of February 2007

Hon'ble Mr. M. Jayaraman, Member 'A'

Rudra Kumar, Son of Late Kapil Deo, C/o Sri Gorakh Prasad, Resident of House No.94, Yashoda Nagar, Kanpur Nagar.

Applicant

By Advocate Sri B.D. Shukla

Versus

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. Director, Defence Material and Stores Research and Development Establishment D.M.S.R. & D.E. Post Office G.T. Road, Kanpur Nagar.

Respondents

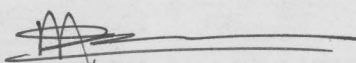
By Advocate Sri Saumitra Singh

ORDER

Heard, Sri B.D. Shukla, Counsel for the applicant and Sri Saumitra Singh, Counsel for the respondents.

2. The applicant has by this O.A. prayed for quashing the impugned Order dated 08.07.2003 by which his request for compassionate appointment has been rejected. He has also prayed for issue of suitable direction to consider him for appointment on compassionate grounds anywhere according to his qualification.

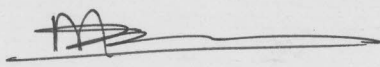
3. The brief facts of the case here are that the applicant's father was appointed as a Helper under respondent no.2 in January 1982 and after working for nearly 18 years, he (Late Kapil Deo) died on 20.12.1999 during harness. The Cantonment Board, Kanpur has issued a death certificate on 21.12.1999. The applicant submitted a Notary Affidavit on 01.03.2000,



declaring him as the only heir of the deceased Kapil Deo. Subsequently, he moved an application on 01.02.2001 seeking appointment on compassionate ground. By letter dated 21.06.2001, the respondent no.2 sought certain particulars of moveable and immovable property alongwith educational qualification as also the death certificate of Late Kapil Deo. In the meantime the applicant passed his High School Examination in IInd division vide mark sheet dated 07.07.2001. The Principal also gave a good character certificate on 20.07.2001 to the applicant. By affidavit dated 09.08.2001, the applicant submitted that there was no moveable or immovable property with his father or with him. He again sent a reminder on 02.07.2002 for giving appointment to him on compassionate ground. In spite of several reminders, since no response was received, he moved an Original Application No.1565 of 2000. Before the counter affidavit was filed, the respondent no.2 passed the impugned order dated 08.07.2003 rejecting the claim of the applicant. That is how the present O.A. has been filed.

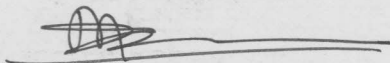
4. The main ground on which the applicant has filed this O.A. is that after the death of his father on 20.12.1999 the applicant contacted respondent no.2 for compassionate appointment and the same has now been rejected on the ground that the applicant is married. Since the applicant is unemployed, the rejection on this ground is not correct. He had filed a formal application within 3 months of the death of his father but the same was not considered. Several junior persons have been appointed but the applicant has been ignored. Since both his mother and father have died, the applicant is an orphan and he is facing acute problem and he should be considered for compassionate appointment.

5. Opposing the above grounds, the respondents have stated that after the death of applicant's father, the applicant was paid an amount of Rs.2,62,193/- towards terminal benefits and after 14 months of death of his father, applicant made the request for appointment on compassionate ground. The Board of Officers has examined all the cases of compassionate appointment but did not recommend the case of the applicant because no vacancy in Group 'C' or Group 'B' is available within the ceiling of 5% and the case of compassionate



appointment was to be finalized within 1 year~~ly~~ from the date of death of a Government servant and so the matter was time barred. It was further considered that the degree of compassion in the instant case ^{was} much lower, ~~and~~ Since there was no other dependent of the deceased and further that the applicant is already married and should be earning to maintain his family ^{and} he chose~~d~~ to withdraw family pension w.e.f. June 2002, having attained 25 years of age. As per the Apex Court Judgment in the case of Umesh Kumar Nagpal Vs. State of Haryana and others J.T. 1994 (3) SC 525, the whole object of granting compassionate appointment was to enable the family to tide over the sudden crisis and to relief the family of the deceased from the financial distress and to help it to get over the emergency. The respondents have further stated that compassionate appointment cannot be granted a lapse of reasonable period.

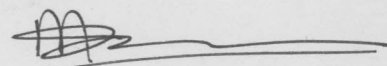
6. I am afraid that I do not agree with the pleadings of the respondents. It is admitted in the counter affidavit itself vide paragraph no.7 on page 2 thereof that the applicant's made a request for appointment on compassionate ground after 14 months of the death of his father whereas in the impugned order one of the reasons given is that the applicant is married and he is only survivor of the deceased. The applicant cannot be blamed if he is the only survivor of the deceased. Further he stated that he is unemployed and during the lifetime of his father he was dependent on his father together with his wife. The grounds given accordingly in the impugned order for rejection of applicant's request for compassionate appointment, are not correct and are too vague. It is not enough to say that applicant's case did not deserve any employment assistance and that the applicant has been granted terminal benefit of Rs.2,62,193/- . The applicant says that within 3 months of the death of his father, he approached the respondents for granting the compassionate appointment and immediately after receipt of notary affidavit regarding succession; he made an application on 01.02.2001. It is the department, which has considered the case of the applicant much later, and so the department cannot take advantage of delay on ~~its~~ own part in taking the decision to reject the case of the applicant on the ground that the applicant's father died more than 3 years back. Though it is a settled law as pointed out by the respondents that compassionate appointment



is not a vested right and cannot be claimed as a matter of right, it is equally true that the individual case for appointment on compassionate ground must be considered objectively on the basis of comparative assessment of merit of the individuals who are considered at the relevant time. Perusal of the impugned order clearly shows that the applicant's case has been rejected without proper application of mind and proper self-direction to the relevant factors and without disclosing the objective standard on which it can be said that the case of the applicant did not deserve employment assistance. The respondents presumed too much when they say that since the applicant is married, he should be earning to support his family without any evidence to the effect.

7. In the circumstances mentioned above, I am unable to convince myself to sustain the impugned order. Accordingly, I set aside the impugned order dt. 08.07.2003. The matter is remitted back to the competent authority to reconsider the applicant's request for compassionate appointment and take appropriate decision afresh in accordance with the proper self-direction to all the relevant factors and also in the light of observation made above, within a period of 3 months from the date of communication of this Order. Needless to say, ^a self-contained speaking order should be issued to the applicant within the time frame² as above.

8. The O.A. stands disposed of in the above terms. Parties shall bear their own costs.


Member (A)

/M.M./