

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO.1638 of 2003

Allahabad, this the 29th day of May, 2007

Hon'ble Mr. P.K. Chatterji, Member-A

Mohd. Rahmat Ali son of Late Soladhan Ali,
R/o Village and Post Karauta, P.S. Rudrapur,
District Deoria.

...Applicant.

(By Advocate : Shri A.K. Srivastava)

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The D.G.E.M.E. (EME Civ-2) MGO's Branch, Army Head Quarter D.H.Q., P.O. New Delhi-11.
3. The Officer Commanding 307 Station Worksholp EME C/o 99 A.P.O.

...Respondents.

(By Advocate : Shri S. Singh)

ORDER

The applicant has brought this application after being denied a job on compassionate quota of the respondents. The applicant's father died while in service on 28.5.1994. Thereafter, on 1.5.1995, an application was filed by the applicant for a job on compassionate ground. The applicant was informed vide letter dated 16.11.1998 (Annexure-A-1) that upon considering his case for compassionate appointment it could not be granted as he was not found fit for the same. He was further informed by Shri R.S. Mehta, Officer Commanding of the Unit that his request was considered by the Board of Officers in accordance with the rules and it was decided that it was not fit for granting the job on compassionate ground. The applicant thereafter made a further representation which was disposed of by the respondents on 1.11.1999 (Annexure-7) informing him th

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after consideration, his request was turned down by the concerned authority.

2. The applicant is aggrieved that above-mentioned three letters (Annexure-A-1, A-2 and A-7) are not speaking orders and they deserve to be quashed by the Tribunal. Having failed in his repeated requests for getting a job on compassionate quota, the applicant has approached this Tribunal seeking the following relief(s) :

- (a) It is prayed that order dated 16.11.1998 passed by respondent No.2, sent by respondent No.3 on 2.12.1998 through letter No.B/03184/G P'D'/EME Civ-2 may be quashed.
- (b) It is prayed that respondents may be directed to appoint the applicant to the post of Vith Class under the Dying in harness Rules.
- (c) The Hon'ble Tribunal may kindly issue such order or direction to the respondents, as this Hon'ble Court may deem fit and proper in the circumstances of the case.
- (d) Award the cost of this application in favour of the applicant.

The respondents have refuted the allegations in the counter affidavit. It has been stated in the supplementary counter that the job on compassionate ground has to be provided in extreme penury. It is stated that compassionate appointment has been restricted at present at the guidelines of DOPT, at present upto a maximum of 5% of vacancies arising in the cadre in a years. They have examined many applications on the basis of guidelines given by the Ministry of Defence as well as Department of Personnel. Learned counsel for the respondents have cited the relevant circulars of the Ministry of Personnel and Public Grievances No.14014/23/99-Estt(D) dated 3.12.1999 (Annexure-SCA-1) which lays down condition for providing the job on compassionate quota.

3. It has further been pointed out by the counsel for the respondents in their submissions that the respondents now follow the practice of the assigning marks on different and parameters to adjudge the merit of the many applicants.

M. S. Srinivasan

The submissions made by the respondents at para-3 of the supplementary counter is relevant in this context and therefore is given below :

"That as per the policy in vogue in 1998, to assess the compassion of the applicants, on the direction of the Ministry of Defence and the Head of the Department had issued instructions to allot points for various parameters such as pension, terminal benefits etc based on a sixty point scale for comparatively balanced and objective assessment of really deserving cases. Based on the points secured and approximate vacancies likely to occur in a year, it was decided to recommend cases of those who secured 60% marks. These individuals were wait listed and offered appointment as and when they came under 5% quota of vacancies. Those who secured less than 60% marks their applications were rejected and the names were deleted from the list. Since their case cannot be kept pending for want of vacancies. In this connection a copy of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, DOP&T OM F No.14014/23/99-Estt (D) dated 3.12.1999 is being filed and marked as Annexure SCA-1 to this supplementary counter affidavit."

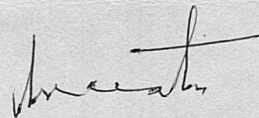
4. It would appear from the perusal of the para even those securing 60% on their above mentioned scale do not get the job immediately as the number of jobs which can be given is only 5% in this quota. Those who do not get the job immediately are kept in waitlist and as and when the vacancies arise they are given the job. In this situation the question of keeping those who secured less than 60% in waiting does not arise.

5. Earlier, the Tribunal had directed that for the purpose of adjudication of this OA proceeding of the departmental committee for considering the case of the applicant alongwith others are produced. Learned counsel of the respondents had brought the record today. It appears from the perusal of the record that the applicant figured at Sl. No.79 and was given total 28 marks i.e. 47%. There were many candidates who got much more than 60%. Learned counsel for the respondents further intimate the committee considered 309 candidates and out of them only 121 were above 60% marks and for these reasons it was not in a position to approve the case of the applicant for

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appointment on compassionate quota. However, at the same time, the respondents stated that they have duly considered the case of the applicant and therefore no right of the applicant is violated in any way. In course of the arguments a question was put to the learned counsel for the applicant as to how he is seeking to quash the three impugned orders as being non-speaking. He was asked to cite the relevant DOPT circulars, which provided that such orders should be speaking orders.

6. After hearing the arguments and having gone through the pleadings, I have applied my mind to the same. It is seen that the case of the applicant was duly considered by a committee alongwith many other candidates. The respondents have taken the guidelines of the relevant circular of the DOPT. It also appears that they have no bad intention towards the applicant whose case was duly placed before the Board, which is supposed to apply their mind objectively and independently. I am also satisfied with the record provided by the respondents, which is returned after perusal. However, it is to be remembered that the number of job available on compassionate quota are much less compared to the number of the applicants. Therefore, examinations of relative ^{merit} merit of the cases become inevitable and for such compelling circumstances the respondents are to examine the cases on utmost objective consideration. It is unfortunate that same cases cannot be approved. But it cannot be helped. For the above reasons, I am not able to allow this OA, which is accordingly dismissed. No costs.



Member-A