

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No.178 of 2003

Tuesday, this the 22nd day of April, 2003

Hon'ble Mr. A.K.Bhatnagar, J.M.

Chandan Kumar,
Son of Late Shri Satya Narain,
Resident of Village - Ram Sagar,
Post Office - Chaka (Naini)
District - Allahabad.

- Applicant.

(By Advocate : Shri R.K.Shukla)

Versus

1. Union of India,
through its Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. Director General of Ordnance Services,
Army Head Quarter, D.H.Q. P.O.,
New Delhi.
3. Commandant, Central Ordnance Depot,
Chheoki, Allahabad.

- Respondents.

(By Advocate : Shri P.D.Tripathi)

ORDER (ORAL)

By Hon'ble Mr. A.K.Bhatnagar, J.M. :

This O.A. has been filed under Section 19 of A.T. Act for seeking relief by issuing a direction to respondent No.1 to take proper decision on the appeal filed by the applicant dated 10.5.2001 within a short period. He has further prayed for a direction for setting aside the order dated 4.4.2001 passed by respondent No.2 and directing the respondents to consider the applicant positively for compassionate appointment to the post of Mazdoor.

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2. The case in brief as per the applicant is that the father of the applicant Shri Satya Narain Sawer working on the post of M.S.D. in the office of C.O.D., Chheoki (Naini), Allahabad, had died in harness on 21.08.1995 leaving behind his wife Smt. Kamlesh Devi and a son Shri Chandan Kumar (applicant) and two unmarried daughters Km. Reetu and Km. Shallu. After the demise of his father, the applicant has applied for compassionate appointment to the post of Mazdoor vide application dated 30.11.1995 (Annexure-3). It is also claimed that respondent No.2 did not consider the application for compassionate appointment of the applicant on the post of Mazdoor and rejected the application of the applicant vide order dated 04.04.2001 (Annexure-7). It is also claimed that the applicant preferred an appeal on 10.5.2001 before Secretary, Ministry of Defence, Government of India but till date no decision could be taken on the said appeal. The appeal is filed as Annexure No.6, hence the applicant filed this OA.

3. I have heard the learned counsel for both the parties and perused the record carefully.

4. The learned counsel for the applicant submitted that the order passed by the respondents rejecting the application of the applicant is vague as no reasons has been assigned for rejecting the application of the applicant. He has also claimed that he deserves appointment on compassionate ground on the post of Mazdoor under the compassionate employment scheme which is meant for helping the family after the death of the bread earner. It is also submitted that an appeal was filed on 10.5.2001 against the order dated 04.04.2001 but the said appeal has not yet been decided by the Secretary, Ministry of Defence, Government

of India, New Delhi. I have perused the letter dated 04.04.2001 addressed to the applicant's mother Mrs. Kamlesh Devi, wife of late Shri Satya Narain (Annexure-7), in which it is mentioned that the representation of the applicant dated nill was considered and finally rejected by the respondents on the ground that the case of the applicant was considered four times alongwith other candidates by the Boards of Officers held at C.O.D., Chheoki. But he could not be selected for employment on the basis of criteria laid down to determine relative hardships and availability of limited number of vacancies. It is also mentioned therein that the applicant has already availed three chances permissible to an individual for consideration for appointment on compassionate ground so his request for consideration of the case again cannot be acceded to as per existing policy by the circle committee. The perusal of the impugned order dated 04.04.2001 goes to show that the case of applicant was examined and his request for compassionate appointment has been rejected by the circle committee on the ground which has been mentioned therein. After the perusal of the above order, I find no irregularity or infirmity in the impugned order. The policy behind the compassionate appointment is to give relief to the family of the deceased employee on passing away of the bread earner of the family as early as possible. Due to shortage of vacancies and restriction of compassionate appointment to five percent of the total vacancies of the organisation, it is not possible to provide job to every person except more deserving candidates.

4. The learned counsel for the respondents contended that the O.A. filed by the applicant is highly time barred.

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He has also contended that there is no provision of appeal in the case of compassionate appointment, so the appeal filed by the applicant has no sanctity in the eyes of law. He relied on the order of this Bench in OA No.501/2001 decided on 15.5.2001 which reads as under :-

"In the case of compassionate appointment, there is no provision for appeal and as per submissions from the side of the applicant, competent authority to appointment on compassionate ground is General Manager, Ordinance Equipment Factory who has already taken a decision and communicated as per Annexure-A-1. Therefore, it will be a futile exercise to refer the representation for decision to Additional Director General."

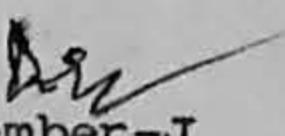
5. Learned counsel for the applicant has filed delay condonation application under Section 5 of the Limitation Act alongwith this O.A. duly supported by an affidavit of the applicant in which it is stated that he approached one Advocate Shri Mishra and signed papers on 19.02.2002 but the Advocate did not file the case in the Tribunal then he contacted the present counsel on 04.02.2003 who looked into the matter and filed this O.A. on 18.2.2003. The grounds mentioned in the application alongwith affidavit are not appealing and convincing on the ground of explaining the long delay in filing this O.A. I find no sufficient cause for condoning the delay as the father of the applicant died in 1995 and the applicant could have approached this Tribunal within a reasonable period prescribed under the Act, so the application No.710/02 filed by the applicant for condonation of delay is rejected. [✓] placing reliance on 1990 SCC (L&S) 50 in the case of S.S. Rathore Vs. State of M.P. and in the case of Ramesh Chandra Sharma Vs. Udhamp Singh Kamal & ors. A.I.S.L.J. 2000(2) Page 89. and

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✓ In view of the aforesaid discussion, I am of the opinion that the O.A. is liable to be dismissed as grossly time barred and lacking merits also.

6. Accordingly, the O.A. is dismissed as time barred and being devoid of merits at the admission stage itself.

There shall be no order as to costs.


Member-J

RKM/