

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 581 of 2003

Allahabad this the 14th day of May, 2004

Hon'ble Mr. Justice S.R. Singh, V.C.

Smt. Poonam Singh, aged about 33 years, Wife of Late
Sri Praveen Kumar Singh Chauhan, Central Excise
Inspector.

Applicant

By Advocate Shri S.K. Om

Versus

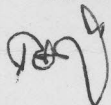
1. Union of India through Secretary, Central Board
of Excise and Customs, New Delhi.
2. The Chief Commissioner, Customs and Central Excise
Lucknow Zone, Lucknow.
3. Commissioner, Central Excise, Civil Lines, Allahabad.
4. Commissioner, Central Excise (Headquarter), Kanpur.

Respondents

By Advocate Shri G.R. Gupta

O R D E R (Oral)

The applicant's husband died in harness on
21.12.2000. She staked her claim for compassionate
appointment vide application dated 23.10.2001 which
has been rejected vide impugned order dated 05.05.03
on the ground of "non availability of vacancies in the
compassionate appointment quota." The scheme for
compassionate appointment under Central Government as

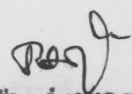


Contained in Office Memorandum No.14014/6/94 Estt.(D)
Govt. of India, Ministry of Personnel, Public Grievances
and Pension(Department of Personnel and Training)
New Delhi, October 9, 1998, annexed as annexure-7,
lays down certain eligibility conditions for com-
passionate appointment and provides that appointment
on compassionate ground can be made up to a maximum
of 5% of vacancy falling under direct recruitment
quota in any Group 'C' or Group 'D' post. In the
order impugned herein it is not clear as to whether
vacancy in the compassionate appointment quota was
not available in Group 'C' or Group 'D' post.
In para 6 of the counter affidavit, however, it has been
stated that the applicant had applied for the post of
U.D.C. and the Cadre Controlling Authority for entire
zone of U.P., is the Commissioner of Central Excise,
Kanpur, who, it is further alleged, was requested to
allocate sufficient number of vacancies for considering
pending cases of compassionate appointment, which was
at relevant time 20 and had since increased to 32 for
ministerial post. It has been submitted by Shri S.K.Om
that it is wrong to say that the applicant had applied
for compassionate appointment only on U.D.C. post, as
alleged in the counter affidavit. Learned counsel submits
that the applicant can be appointed against any available
post, ~~either in Group 'D' or Group 'C'~~. It is conceded in
para-7 of the counter affidavit that there has been no
appointments since 1998, but there is no specific averments
that no vacancy occurred in Group 'C' or Group 'D' post
during this period since after the death of applicant's
husband nor is there any specific averment to the effect that
no vacancy was available at the time of death of applicant's
husband. In para-19 of the counter affidavit it has been

7. Deleted vide
order of
J.M. 4/10/04

Regd

stated that after availability of vacancy, case of the applicant" may be re-examined as per rules contained vide Ministry's O.M. dated 09.10.1998." The request of the applicant was rejected by order dated 05.05.03 on the ground of non availability of vacancy in compassionate appointment quota. Sufficient time has elapsed since then. I am of the view that it would meet the ends of justice if the competent authority is directed to re-examine the applicant's claim for compassionate appointment in accordance with law against the vacancies in the compassionate appointment quota. It is further clarified, having regard to the law laid down by the Supreme Court in Balbir Kaur Vs. Steel Authority of India 2000 S.C.C.(L&S) 767 that benefits received by the applicant under Family Benefit Scheme shall not be equated with the benefit of compassionate appointment. In other words, applicant might have ~~been~~ received the benefit such as family pension, death-cum-retirement gratuity, G.P.F. etc. but these benefits will not debar ^{her} ~~him~~ for being considered under the compassionate appointment scheme. The decision in this regard shall be taken within a period of two months from the date of receipt of a copy of this order. It is made clear that while taking decision in the matter of the applicant, specific order shall be passed indicating therein the number of vacancies that may have ^{to become} available in the department so as to enable the applicant to ^{to stake} ~~raise~~ her claim against 5% vacancy that may fall under the compassionate appointment quota. The O.A. is disposed of accordingly. No order as to costs.


Vice Chairman

/M.M./