

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, General 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

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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 compassionate 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 averment 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

*Debtors file
22/10/98
J. M. S.
O.P. 9/10/98*

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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 ~~him~~ ^{her} 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 ^{become} ~~available~~ ^{available} ~~in stake~~ in the department so as to enable the applicant to ~~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.

Parj
Vice Chairman

/M.M./