

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 591 OF 2003

ALLAHABAD THIS THE 22nd DAY OF April 2007

HON'BLE MR. S. K. DHAL, MEMBER-J

Smt. Tara Devi W/o Late Sri Som Chnad,
Ex-Cane Weaver of GEMES Roorkee (Uttranchal), R/o
Quarter No.10th Plinth Area T-17/60, Shahjahanpur
(U.P.)

..... Applicant

By Advocate : Shri M. K. Sharma

Versus

1. Union of India through the
Defence Secretary, Ministry of Defence,
Government of India, South Block, C.G.O. Complex,
New Delhi-110011.
2. The Chief Engineer,
Bareilly Zone, Station Road,
Bareilly Cantt.
3. The Commander Works Engineer (CWE)
Dehradun (Uttranchal).
4. The Garrison Engineer (MES)
Roorkee (Uttranchal).
5. The A.G.E. (I) M.E.S. Shahjahanpur.
6. The Adm Comdt. Station HQ Shahjahanpur (U.P.)

..... Respondents

By Advocate : Shri S. Singh

O R D E R

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The order dated 05.04.2000 (Annexure A-1) passed
by respondent No.2, rejecting the claim of the
applicant for compassionate appointment and the order
dated 18.06.2002 (Annexure A-4) passed by respondent

No.5 for recovery of rent for government accommodation have been challenged in this original application.

2. One Shri Som Chand who belongs to a member of schedule caste and had taken training at training center for adult blind Raj pur Road, was appointed in M.E.S. at AGE (I) Shahjahanpur as Cane Weaver on the quota of blind handicapped. He died on 10.03.2000 while working at Roorkee after putting service for 13 years nine months in M.E.S. After the death of Som chand, the applicant being the legal married wife, submitted application for compassionate appointment enclosing all the relevant documents as required. The respondent no.2 issued letter on 18.01.2001 to respondent no.4 regarding payment of family pension. As per the guidelines of scheme of compassionate appointment the applicant applied for the post of Group 'D'. There is no response. Rather the respondents took step for recovery of house rent for government accommodation, which was provided, to the deceased government servant. The applicant made representation with the Chief Engineer and to the Hon'ble Defence Minister. But her request did not find favour ^{of} ~~to~~ the respondents who intimated that appointment couldn't be made, as there was no vacancy. The present application has been filed for following reliefs:-

"(a) that a direction be issued to the respondents to give her compassionate appointment immediately.

(b) That the respondents be restrained from making recovery the house rent for the Government accommodation."

3. In the written counter affidavit and supplementary counter affidavit the respondents have pleaded that the compassionate appointment cannot be claimed as a matter of right. More over, the applicant has got sufficient means for her maintenance as she is receiving family pension and has received pensionary benefits of her husband after his death. It is further pleaded that as there was no vacancy; the appointment could not be given. As regards recovery of the rent it is stated that the applicant being in possession of Government accommodation she is required to pay the rent.

4. I have heard the learned counsel for the parties and perused the documents available.

5. It is true that the compassionate appointment cannot be claimed as a matter of right. Two conditions are necessary for such appointment. There should be vacancy and the applicant must be eligible for the post applied for. It is also well settled that compassionate appointment cannot be denied on the ground that the widow had received terminal benefits/retiral benefits and pension as payable to her.

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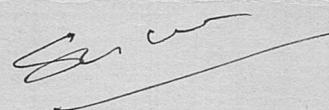
6. In the case in hand the applicant has been found eligible for the Group 'D' post. Her husband died in early age. Compassionate appointment has been refused on the ground that there is no vacancy. Except this ground the other grounds taken by the respondents are not at all acceptable because those grounds are not sustainable in the eye of law.

7. The Tribunal cannot direct the respondents to give the appointment to the applicant but the respondents can consider her case. In this case, the respondents have failed to place materials before this Tribunal about the vacancy position. So in that case the applicant is not able to know her position and about the future vacancy. If the respondents would intimate her about her position in the waiting list, she could know about her position.

8. As regards the recovery of the house rent if the applicant has continued the possession of government accommodation which was provided to her husband during his service period she is required to pay the license fee. In this case the applicant has been directed to deposit the amount in the Bank. The said amount could have been recovered from the gratuity of the Government servant without asking the applicant to deposit the same in the Bank.

9. As per my above findings the OA is allowed ^{on} contest. The respondents are directed to intimate the applicant about the ^{number} ~~position~~ of vacancy and her

position in the waiting list. If there is vacancy, her case should be considered in more objecting manner giving preference to her claim. As regards recovery of the house rent, the rent for government accommodation can be deducted from the salary of the applicant if she is appointed or can be deducted from the gratuity of the Government servant, if not paid. Meanwhile if the applicant stays in the government accommodation inspite of the order of the authority to vacate the accommodation provided to her husband; She is required to pay the rent as demanded. No costs.



Member-J

/ns/