

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 703 of 2003

Allahabad this the 01st Day of June, 2005

Hon'ble Mr. A.K. Bhatnagar, Member (J)

Rahul Nigam, Son of Late Prem Shanker Nigam, R/o 224-Z-1, Burra Ist, Kanpur Nagar.

Applicant

By Advocate Shri H.P. Mishra

Versus

1. Union of India through Secretary, Ministry of Finance, New Delhi.
2. Regional Director (Administration Branch), Employees State Insurance Corporation, "Panchdeep Bhawan", Sarvodaya Nagar, Kanpur Nagar.
3. Assistant Director (Administration), Employees State Insurance Corporation, "Panchdeep Bhawan", Sarvodaya Nagar, Kanpur Nagar.

Respondents

By Advocate Shri P.K. Pandey

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has prayed for quashing the Order dated 27.09.2002 (annexure-11) passed by respondent no.3. Further direction is sought to respondents to issue appointment letter to the applicant under compassionate ground and to release the entire arrears of service benefits of applicant's father.

AM

2. According to the applicant his father Late Prem Shanker Nigam died on 31.10.2000 while working as Insurance Inspector in the respondents' establishment. He died after putting in about 36 years of service leaving behind widow and son(applicant). The applicant's mother moved an application for applicant's appointment in the department on compassionate ground on 17.11.2000 (annexure-3). Thereafter respondents issued a letter dated 12.01.2001 for completing certain formalities and in compliance of the same mother of the applicant Submitted the requisite informations (annexure-4 and 4A). When no reply was received, the applicant and his mother moved representation on 12.06.2001 and 11.09.2001 to consider the appointment of the applicant in the department (annexure-5 and 5A). By letter dated 11.04.2002 respondent no.2 issued a letter to the applicant for submitting the requisite documents regarding economic position and his qualification etc. (annexure-8). Thereafter by another letter dated 14.05.2002 respondent no.2 informed the applicant that no post of class III is vacant and in case if he is interested he may be given appointment on class IV post (annexure-9). He sent reply, filed as annexure-10, which was ultimately rejected vide impugned order dated 27.09.2002 by a three lines order, stating therein that the applicant is not found eligible for appointment under dying in harness rules issued by the department.

3. Learned counsel for the applicant submitted that the applicant is only son to look after his family and he has no other source of livelihood. He further submitted that applicant and his mother complied with all the queries raised by the respondents regarding appointment on compassionate ground under dying in harness rules but applicant has rejected the claim of the applicant without

W

giving any proper reason. Learned counsel finally submitted that vide annexure-9 of the O.A. the applicant was informed that there is no regular vacant post available in Group 'C' but there is vacancy in Group 'D' post and if the applicant is ready to accept the same, then his case can be considered sympathetically. At this stage, learned counsel for the applicant made a statement at bar that applicant is ready to accept any post in Group 'D' category and on humanitarian ground respondents be directed to reconsider the case of applicant under dying in harness rules on any group 'D' post available in the department.

4. On the other hand learned counsel for the respondents resisting the claim of the applicant filed the counter affidavit and justified the action of the respondents.

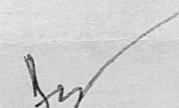
5. Heard the learned counsel for the parties and perused the pleadings.

6. I have perused the letter dated 14.05.2002 (annexure-9) in which it is clearly stated by the respondents that there are regular vacancies in group 'D' and the case of the applicant can be considered for the same and if the applicant is so interested, he should submit his written consent for the same at the earliest. The applicant also replied the same by letter dated 25.05.2002 but not specifically gave his consent for class IV post. I have also gone through paragraph no.11 of the counter affidavit in which it is clearly stated that widow(mother of the applicant) has got Rs.6,68,878/- as terminal benefits besides the monthly pension of Rs.4700/-. In this paragraph it is clearly stated that the applicant was offered the post of Group 'D' but he denied to accept the Group 'D' post. This clearly shows that applicant is not facing financial

✓

hardship as he considers taking over the post of Group 'D' below dignity. All these things show that applicant is not in financial crisis otherwise he would have agreed to join even as Class IV employee. However, after considering the submissions of applicant's counsel made at bar that applicant is ready to join if his case for Group 'D' post is considered, and on purely humanitarian ground, I am of the view that this O.A. can be disposed of by directing the competent authority i.e. respondent no.2 to reconsider the matter of the applicant for compassionate appointment on group 'D' post in the light of letter dated 14.05.2002 (annexure-9) and in view of submissions made in paragraph no.11 of the counter affidavit. This exercise shall be completed within a period of 3 months from the date of receipt of a copy of this order. No order as to costs.

7. Accordingly, the O.A. is disposed of in terms of above observations.



Member (J)

/M.M. /