

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 769 OF 2003
ALLAHABAD THIS THE 26th DAY OF September, 2003

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

Anand Kumar Pal,
S/o Late Chhangoo Lal Pal,
R/o Village Umarpur Neewan,
Tehsil Chail,
District-Kaushambi.

.....Applicant

(By Advocate Shri M.D. Mishra & Shri R.P. Singh)

Versus

1. Union of India,
through Chief Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.

2. Chief Engineer,
Headquarters Commander Works,
Engineer (A.F.), Bamrauli,
Allahabad-12.

3. Garrison Engineer,
Engineer Park,
Allahabad.

.....Respondents

(By Advocate Shri R.C. Joshi)

O R D E R

In this O.A. filed under section 19^{hr} of Administrative
Tribunals Act 1985, the applicant has prayed for direction
to the respondents to appoint the applicant in place of his
father Late Shri Chhangoo Lal Pal on compassionate grounds.

2. The facts, in short, are that the father of the



applicant was working as Chowkidar in the office of Chief Engineer (Engineer Park), Allahabad under the respondent's establishment. Shri Chhangoo Lal Pal father of the applicant died in harness on 22.02.2001. He was interviewed by the respondents on 12.06.2001, was required to file certain documents which he supplied on 04.07.2002. Since no decision was taken, the applicant filed O.A. No.1224/02 which was disposed of by order dated 28.01.2003 with direction to decide the representation of the applicant by a reasoned and speaking order. In pursuance to the direction of this Tribunal the representation of the applicant has been rejected vide impugned order dated 30.05.2003. Aggrieved by the same the applicant has filed this O.A. which has been contested by the respondents by filing CA.

3. Shri M.D. Mishra, learned counsel for the applicant at the outset submitted that the order dated 27.02.2003 communicated through the impugned letter dated 30.05.2003 is not a speaking order. The applicant has completed all the requirements for appointment and the respondents have tried to escape the legal liability under the garb of Government order. The representation of the applicant has been rejected on flimsy grounds.

4. Inviting my attention to Annexure CA-1 to the counter affidavit, the applicant's counsel submitted that the so called final speaking order dated 16.07.2003 is nothing but reproduction of the order dated 27.02.2003 which has been communicated by letter dated 30.05.2003 except that para 8 has been added stating that the order of this Tribunal dated 28.01.2003 has been fully complied with. Another argument advanced by the applicant's counsel is that the respondents are

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talking about 5% vacancies against which the compassionate appointment can be made but the 5% vacancies have to be computed on the basis of overall vacancies in the respondent's establishment. The case of the applicant could easily be considered for some other place in the respondent's establishment. The claim of the applicant is not belated. The assets shown in the impugned order are incorrect.

5. In order to decide the poverty line the various points have been given on various attributes in the Scheme for Compassionate appointment Relative Merit Points and Revised Procedure for Selection. ^{Ann-CA-3 to the Comptroller} According to the points given therein the applicant gets only 52 points and in the impugned order nothing has been stated about it and also that on securing only 52 points, the case of the applicant could not be ignored. Therefore, the orders of the respondents are arbitrary, discriminatory and are liable to be quashed.

6. Resisting the claim of the applicant the respondent's counsel submitted that the contention of the applicant that the assets shown in the order of the respondents rejecting the claim of the applicant is not correct in view of the report of Tehsildar which the applicant has himself submitted. The respondents have made a balanced and objective assesment of the financial condition of the family of the applicant vis-a-vis other cases for compassionate appointment. The income of the brother of the applicant is also Rs.2000/- ^{per month} and besides terminal benefits the mother of the applicant is getting family pension of Rs.1490/- per month.


7. I have heard counsel for the parties, carefully considered their submissions and closely perused records. I have

[Signature]

also carefully perused the orders of the respondents passed on 27.02.2003 and 16.07.2003.

8. In the relief clause the order of the respondents dated 27.02.2003 and 16.07.2003 have not been challenged. The applicant has challenged only the letter dated 30.05.2003. However, perusal of the orders of the respondents leaves no doubt in my mind, that these are the reasoned and speaking orders. Learned counsel for the applicant raised the issue that the respondents could consider the applicant for appointment at other places also. I would like to observe that in both the orders dated 27.02.2003 and 16.07.2003, it has been mentioned in para 4 that the case of the applicant was placed before the Board of Officers alongwith other cases and obviously the Board of Officers has considered all the aspects of all the cases placed before it. The contention of the applicant, that the applicant gets only 52 ^{in assess} points to the poverty line, has got no relevance. In the context of the matter that the Board of Officers, after examining all the cases found ^{in cases} other/more deserving for adjustment against 5% vacancies on compassionate grounds, the case of the applicant could not be recommended. Even the assets and the income shown in the orders dated 27.02.2003 and 16.07.2003 have no relevance specially when there were other ^{in more} deserving candidates. The respondents have committed no illegality and I do not find any good ground for interference.

9. In the facts and circumstances and aforesaid discussions, the O.A. is devoid of merit and is accordingly dismissed with no order as to costs.


Member-A

/Neelam/