

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 931 OF 2003
ALLAHABAD, THIS THE 31st DAY OF JANUARY, 2005
HON'BLE MR. JUSTICE P. SHANMUGAM, VICE-CHAIRMAN

Gauri Shanker,
son of Late Amrit Lal,
Resident of 273 KhalasiLine,
Kydganj, Allahabad.

.....Applicant

(By Advocate : Shri A.K. Srivastava)

V E R S U S

1. Union of India through its Secretary
Ministry of Defence, New Delhi.
2. Director General of EME (EME Civ)
M.G.O 's Branch Army Head Quarters
D.H.O.P.O. New Delhi.
3. Commanding Officer,
Station Workshop EME Type 'L'
Post Box No.43, Allahabad-200 001.

....Respondents

(By Advocate : Shri V.V. Mishra)

O R D E R

By Hon'ble Mr. Justice P. Shanmugam, V.C.

The applicant applied for compassionate appointment on the ~~.....~~ demise of his father on 06.07.1995 while in service. The application was disposed of by order dated 06.05.2003 rejecting the claim of the applicant. The applicant has prayed for a mandamus for a direction to consider his case for compassionate appointment.

2. I have heard counsel for the applicant and learned

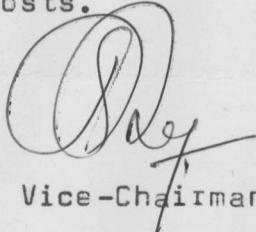
standing counsel for the respondents.

3. Even though the applicant did not submit his application with all particulars in time inspite of several oral requests. Ultimately, he submitted his papers on 28.08.1999. His application was placed before the Board of Officers who assessed the ^{ed} eligibility and merits of similar applicants. Counsel for the applicant has placed reliance on the judgment given by Allahabad High Court in the case of Smt. Padma Pathak Vs. Managing Director, PNB New Delhi and Other reported in 2003(1)SAC 500. I find that in this case the respondents have passed a speaking order, therefore, the judgment of no assistance to the applicant. He has also referred in the case of Smt. Amar Kali and Another Vs. Union of India & Ors. ^{wherein} reported in 2001(2)ATJ 387, Central Administrative Tribunal Principal Bench has taken the view that appointing authorities cannot take into account the retirement benefits given to the family members of the deceased employee. In this case respondents have considered the case by constituting a committee and giving ~~various~~ marks on various factors so that decision can be taken objectively and uniformly. Hence this judgment also will not be of any assistance to the applicant. In the case of Surya Kant Kadam Vs. State of Karnataka reported in 2002 SCC (L&S)1115 the Hon'ble Supreme Court has held that administrative instructions on compassionate appointment is not enforceable in a court of law and that there should not be any discrimination while treating the ^{application} ~~applicant~~ for compassionate appointment. This judgment also in my view is not applicable to the facts of the present case. No discrimination is pleaded in this case. Even though the applicant's father died in the year 1995, the applicant was repeatedly requested to submit his application.

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application and that he has submitted application after years of the demise of his father. All these particulars of the applicant was considered in the year 2003 and disposed of. In the circumstances, I am of the view that none of the decisions relied upon by the learned counsel for the applicant came to the rescue of the applicant.

4. According to the order dated 06.05.2003 they have taken various attributes of the eligibility like terminal benefits, movable/immovable property, number of dependents, number of minor children, number of unmarried daughters and left over service. According to the assessment of the Board of officers, applicant was awarded 61 marks in the scale of 100 points and considering the ceiling of 5% of vacancy for the said purpose, there are ~~some~~ in-adequate vacancies to provide appointment to the applicant. The said order is speaking order giving out reasons for rejecting the application. None of these grounds of rejection are assailed in this O.A. so that respondents could counter the same. Therefore, it cannot be stated that rejection of the application is arbitrary or illegally. Hence no ground is made out to grant the relief sought for in the O.A. Accordingly, the O.A. is dismissed. No order as to costs.



Vice-Chairman

shukla/-