

Open Court

Central Administrative Tribunal, Allahabad Bench,
Allahabad.

PRESENT:

Hon'ble Sri A.K. Gaur, Member -JThis the 17th day of September, 2008Original Application no. 93 of 2007

1. Smt. Sumitra Devi, Aged about 47 years, W/o late Baboo Lal, R/o House No. 14/131, Adarsh Nagar, Shukla Ganj, Unnao.
2. Mukesh Kumar, S/o late Baboo Lal, R/o House No. 14/131, Adarsh Nagar, Shukla Ganj, Unnao.

.....Applicants

By Advocate Sri Kishan Lal.

Versus

1. Union of India, Ministry of Defence, Department of Defence Production through the Secretary, Ordnance Factory Board, 10-A Saheed Khudi Ram Bose Road, Kolkata.
2. The Addl. Director General Ordnance Factories, OEF Group of Factories, Hqrs. G.T. Road, Kanpur.
3. The General Manager, Ordnance Equipment Factory, Kanpur.
4. Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.

.....Respondents

By Advocate : Sri R.K. Srivastava

O R D E R

This O.A. has been filed claiming compassionate appointment in favour of applicant no.2. According to the applicants, a representation was made by applicant no.1 before respondent no.3 on 1.12.2001 for appointment on compassionate grounds in favour of applicant no.2. It is averred that the applicants approached the respondent no.3 on several occasions, but the respondent no.3 rejected the request of the applicant no.1 for grant of compassionate appointment in favour of applicant no.2 vide order dated 10.4.2003. Being aggrieved, the applicants filed an appeal before the appellate authority namely Additional Director General, Ordnance Factories, OEF, Group Factories, Headquarters, G.T.

Road, Kanpur but the same is still pending for consideration, hence this O.A.

2. The claim of the applicants has been contested by the respondents by filing Counter Affidavit wherein they have stated that this O.A. is highly belated and the same has been filed after 2 and ½ years for which no reasonable and plausible explanation has been offered by the applicant for condoning the delay and took other grounds. In support of his submissions, the learned counsel for the respondents has placed relevant rules and several decisions of this Tribunal as well as the Apex Court.

3. The learned counsel for the applicant in support of his submission has placed reliance the following case laws:

{i} 2007 [2] SRJ 302 in re. Abhishek Kumar Vs State of Haryana and Others.

{ii} 2007 [9] SRJ 556 in re. Mohan Mahto. Vs. M/s Central Coal Field Ltd and Ors.

{iii} 2003 All.CJ 1604 in re. Durgesh Kumar Tiwari Vs. Chief General Manager, State Bank of India and Others.

{iv} 2004 [103] FLR 451 in re. Krishna Kumar Vs. Asstt. G.M. State Bank of India, Kanpur and Others.

4. Having heard the parties' counsel I am firmly of the view that the applicant has shown the sufficient explanation for condoning the delay in filing the Original Application and as such delay deserves to be condoned.

5. The case of Ashished Kumar {supra} is not applicable in the facts and circumstances of the present case as the State filed no Counter Affidavit therein, whereas in the present case, the Counter Affidavit has been filed in this case.

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6. The case of Mohan Mahto {supra} also would not be applicable as the cited case belonged to Industrial Disputes Act, 1947, whereas the facts of the instant case are quite different.

7. In the case of Durgesh Kumar Tiwari, the Hon'ble High Court has held that by a rough reckoning if the family of three is made to sustain itself on two square meal at the rate of Rs. 10 per square meal per head, the family bereft of other basic facilities would need a sum of Rs. 60 per day and by this reckoning, the need of the family would aggregate to not less than a sum of Rs. 1800 for fooding alone excepting other necessities of life. The pith and substance of ^{the judgement rendered by the} Hon'ble Judge was ~~of the~~ ^{view} that the case of the applicant would have been considered for compassionate appointment in such a situation.

8. At the outset, I may refer that the appointment on compassionate grounds cannot be claimed as a matter of right. There is also a ceiling of 5% of the vacancies under the direct recruitment quota for consideration of cases of appointment on compassionate grounds. According to the Government Rules, it is necessary to assess the assets, liabilities, terminal benefits received by the family and to measure the indigent circumstances of each case and offer appointment to most deserving cases upto only 5% of the vacancies falls under the direct recruitment quota. As per the Department of Personnel and Training letter dated 9.10.1998 the period of one year is to be reckoned for compassionate appointment with reference to the date of death of a Government servant. Further, the whole object of granting compassionate employment is to enable the family to tide over sudden crises. It is also stated that the compassionate appointment scheme is to grant appointment to a dependant family member of a Government servant dying in harness,

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thereby leaving his family in penury and without means of livelihood to ease the family of the Government servant from financial destitution. Therefore, the mere death of an employee in harness does not entitle his family to such source of livelihood. A job is to be offered only to one eligible member of the family to help them to come out from financial crises. In the instant case, the widow of the deceased employee was granted family pension at the rate of Rs. 1863/- plus D.A. per month besides terminal benefits to the tune of Rs. 2,91,049/- as well as Rs. 1,47,000/- paid by the LIC. Apart from the above, the family of the deceased is also having 1.124 hectares of land from which they are getting Rs. 9000/- per annum. In view of the aforesaid, it cannot be said that the family of the deceased employee is in indigent condition.

9. In view of what has been stated above, I do not find any merits in the claim of the applicants. Accordingly the O.A. is dismissed. No costs.

Anjam
MEMBER-J

GIRISH/-