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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHBAD BENCH
ALLAHABAD

Dated: this the 07th day of August 2008

Original Application No.789 of 2007

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

Namit Kumar Pal, S/o late Sri B.R. Pal, R/o 616,
Panki, Kanpur.

...Applicant

By Adv : Shri A.K. Srivastava, Sri S.D. Singh Jadiun

Versus

1. Union of India, through Secretary to Government, Ministry of Defence, Department of Defence Production, Dte. Gen./Quality Assurance, New Delhi.
2. Director General of Quality Assurance, Department of Defence Production and Supply, D.H.Q., P.O., New Delhi.
3. Senior Quality Assurance Officer, Armapur, Post Kanpur, Distt: Kanpur.

...Respondents.

By Adv : Shri S. Singh

O R D E R

Heard Shri A.K. Srivastava, learned counsel for the applicant and Sri R.C. Shukla brief holder of Sri S. Singh, learned counsel for the respondents.

2. Learned counsel for the applicant states that he does not want to file any RA. Learned counsel for the respondents on the other hand submitted that this matter pertains to compassionate appointment.

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3. I have heard counsel for the parties and perused the record. It is seen from the record that vide order dated 17.08.2002 (Annexure 1) respondent No. 3 rejected the application for compassionate appointment. Vide letter dated 13.07.2002 the respondent No. 3 also intimated the applicant that his request for compassionate appointment was considered by the Board of Officers four times, on quarterly basis, but the compassionate appointment could not be offered to him on Group 'D' post due to non availability of post due to the ceiling of 5%, and the case of the applicant was treated as closed. According to the applicant his father was the only earning member in the family. It is also urged on behalf of the applicant that the father of the applicant died in the year 2000 and since then several vacancies of Group 'D' have occurred and the applicant could have been appointed against any one of them but the respondents have deliberately not appointed the applicant on compassionate ground.

4. Denying the fact stated in the OA the respondents have filed their Counter Affidavit and submitted that the present OA has been filed on 13.07.2007 challenging the order dated 17.08.2002. The cause of action arose on 30.07.2002. There is delay of about more than 04 years from the date of the passing of the impugned order. The applicant has failed to explain

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the delay in the matter and the OA deserves to be dismissed on the ground of delay and latches.

5. Learned counsel for the respondents has placed reliance on Section 21 (1) (a) of the A.T. Act, 1985 in support of his contention and submitted that in view of decision rendered by the Hon'ble Supreme Court in case of *Mohd. Khalil Vs. Union of India and others* : (1997) SLJ (CAT) 54 and 2000 SCC (L&S) 53 R.C. *Sharma Vs. Udham Singh Kamal*, no application shall be admitted by the Tribunal, unless it is made within a year from the date on which the final order has been given. In support of this contention several decisions of this Tribunal and Hon'ble Supreme Court have been relied upon by the learned counsel for the respondents that the scheme of compassionate appointment is to provide immediate financial assistance to the family of the deceased Government employee, who left in the penury and without means of livelihood and in order to relieve the family from financial destitution and to help it over the emergency. Compassionate appointment can be granted only in Group 'C' and 'D' posts upto a maximum of 5% of the vacancies meant for direct recruitment.

6. Learned counsel for the applicant submitted that after attaining the age of majority the applicant had filed Writ Petition before Hon'ble High Court which was not the appropriate forum. The Writ petition was

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dismissed by the Hon'ble High Court to approach appropriate forum. In view of the statement made by the applicant's counsel the delay in filing OA is condoned. However, on merit of this case, judgment rendered in case of **Umesh Kumar Nagpal Vs. State of Haryana and others : JT 1994(3) SC 525** is being followed on the point that the compassionate appointment cannot be granted after a lapse of a reasonable period, and it is not a vested right, which can be exercised at any time in future.

7. In this case the respondents have already taken into account the penurious/indigent condition for assessing the case of applicant for compassionate appointment and also the procedure for assessing relative penury by allocating marks for each parameter. This Tribunal cannot assess the correctness of the decision taken by the respondents and cannot sit over the decision of Board of Officers as Court of Appeal

8. I find no merit in the OA and the same is accordingly dismissed. No cost.

Anjam
Member (J)

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