

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR.A.K. GAUR , MEMBER (J).

Original Application Number. 840 OF 2007.

ALLAHABAD this the 22th day of April, 2009

Om Ji Gupta, Son of Late Makkhan Lal Gupta, R/o 152, Bahadurganj,
Allahabad.

.....Applicant.

VER S U S

1. Union of India through Secretary, Ministry of Defence, Govt. of India, South Block, New Delhi.
2. The Director Personnel (Civilian) Air Force Headquarters, Vayu Bhawan, New Delhi.
3. Air Officer (Personnel), Air Force Headquarters, Vayu Bhawan, New Delhi.
4. Air Officer Commanding, 24 Equipment Depot, Air Force Station, Manauri, Allahabad.

.....Respondents

Advocate for the applicant:	Sri R.S. Prasad
Advocate for the Respondents :	Sri S. Singh
	Sri S.C. Mishra

ORDER

By means of this O.A, the applicant has prayed for setting aside the orders dated 17.03.2006 , 09.05.2006 and 11.09.2006 (Annexure -1, 2 and 3 respectively of O.A) whereby the respondent No. 4 has rejected the claim of the applicant for appointment on compassionate grounds.

2. According to learned counsel for the applicant, mother of the applicant was working as Lascar (T) at Air Force Station, Manauri, Allahabad; her date of birth is 26.09.1947. Learned counsel for the applicant would further contend that due to death of her husband (father

of the applicant), the mother of the applicant became a patient of hypertension and ultimately paralyzed in 2002. According to the applicant, inspite of providing best medical treatment, she could not be recovered and finally she became incapable to perform her duties. Thereafter mother of the applicant moved an application dated 10.09.2004 under rule 38 of Central Civil Services (Pension) Rules, 1972 for retirement from service on medical grounds (Annexure- 4 of O.A. According to the applicant, except his mother, there is no earning member in the family and his father is predeceased. After receiving application of mother of the applicant, Medical Board was constituted to examine her. Consequently the Medical Board gave opinion tht Smt. Subhadra Devi/mother of the applicant is suffering from Diabetes Mellify and Diabetic Foot and Neuropathy and Old Pulmonary Koch. Considering the opinion of Medical Board, mother of the applicant has been retired from service on medical grounds, which has been approved by the Air Officer Commanding on 15.10.2004. Since the applicant was in indigent condition, he preferred an application on 06.05.2005 for employment (Annexure-8) under relaxation of normal recruitment rules, which was forwarded to the competent authority. According to the applicant, at the time of giving application for retirement on medical grounds, his mother was within the age of 57 years on the date of issuance of medical certificate. Learned counsel further submitted that there was no occasion for the respondents to pass formal order with effect from 15.10.2004 keeping the matter pending for such time. The applicant was also directed to present for interview on 16.08.2005 at 10.00 AM (Annexure-9 of O.A). After holding interview, the result was not declared and the matter was kept pending. As the applicant could not get any result of interview, he approached the respondents on several time

but no reply was given by the respondent. In the meantime on 25.05.2006, the mother of the applicant also died. The respondents without considering the indigent condition of the applicant, rejected the claim of the applicant on 09.05.2006 on the ground that the mother of the applicant has retired on medical ground after attaining the age of 57 years.

3. Learned counsel for applicant would further contend that on 16.05.2006 a representation was given by the applicant to consider his case sympathetically for compassionate appointment as his mother had already applied for retirement on medical grounds prior to attaining the age of 57 years, which has been rejected vide order dated 11.09.2006 in most casual manner denying the pleas taken by the applicant in his application.

4. Respondents have filed Counter Affidavit and submitted that the provisions of the scheme is applicable to a dependent family member of a Group 'D' Government servant who is retired on medical grounds under Rule 38 of CCS (Pension) Rules, 1972 before attaining the age of 57 years. In the instant case, the mother of the applicant retired on medical grounds after attaining age of 57 years and as such the case of the applicant is not covered by the scheme of compassionate appointment.

5. I have heard learned counsel for both sides and perused the pleadings as well.

6. It is seen from the record that as per the existing rules, introduced by the Govt. of India, M/o Personnel, Public Grievances and Pension,

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Department of Personnel and Training Letter dated 09.10.1999, Group 'D' government servant who retired on medical grounds under rule 38 of the CCA (Pension) Rules or the corresponding procedure in the CCS regulation before attaining the age of 57 years, are entitled to get the benefit of aforesaid scheme. Learned counsel for respondents further submitted that Headquarter Maintenance Command, Indian Air Force vide their letter dated 10.02.2006 had sought clarification from Air Headquarter as to whether the request of applicant in terms of existing rules can be considered and in response thereto, Air Headquarter vide their letter dated 17.03.2006 have clarified that in terms of para 2(A)(C) of the scheme for compassionate appointment dated 15.07.1999, the provisions of the scheme are applicable to a dependent family member of a Group 'D' government servant, who is retired on medical grounds under rule 38 of CCS (Pension) Rules, 1972 before attaining the age of 57 years. It has been argued by learned counsel for the applicant that application was already given by the mother of the applicant well in time and that too before attaining the age of 57 years and under the provisions of rule 38 CCS (Pension) Rules, the case of the applicant must have been considered for appointment on compassionate grounds.

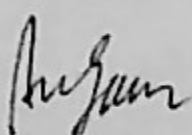
7. I have heard learned counsel for both the parties. The arguments advanced by the learned counsel for the applicant cannot be countenanced on the ground that in the instant case, the government servant had already retired on medical grounds after attaining the age of 57 years. The applicant's mother was boarded out on medical ground only after completion of 57 years of age. The case of the applicant is not at all covered by the scheme for compassionate appointment, as indicated above. Vide letter dated 17.03.2006 (Annexure-1 of O.A) , an

intimation was also given to the applicant in this regard. A perusal of the letter filed as Annexure-4 to the CA, addressed to the applicant clearly mentions that his case for immediate assistance was taken up with the Headquarter and Headquarter Office intimated that in terms of para 2(A)(C) of the scheme of compassionate appointment circulated vide letter dated 15.07.1999, the provisions of scheme are applicable to Group 'D' Government servant, who is retired on medical ground under rule 38 of CCS (Pension) Rules before attaining the age of 57 years.

8. In the instant case, the mother of the applicant retired on medical grounds after attaining the age of 57 years. Therefore, his case does not cover by the scheme of compassionate appointment.

9. In view of the observations made above, I find no merit in the case. Accordingly, the O.A is dismissed with no order as to costs.

/Anand/


MEMBER- J.