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O.A. No. 414/07

ORDER DATED 4TH DECEMBER, 2008

Coram:

Hon'ble Shri Justice K. Thankappan, Member (J)
Hon'ble Shri C.R. Mohapatra, Member (A)

Heard Mr. S.K. Das, Ld. Counsel for the applicant and Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Respondents.

2. This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunal's Act, 1985 with the following prayers:-

- “1. The Hon'ble Tribunal be graciously pleased to quash the order of rejection under Annexure-16;
- 2. And/or in an alternative the Hon'ble Tribunal be pleased to direct the Respondents to reconsider the claim of the applicant in the next board meetings as directed under Annexure-16”

3. The brief, facts which are necessary for disposal of this case, are as follows:-

The father of the applicant, one Rama Das, while working as a Mate Masop, under the Ministry of Defence, died in harness on 19.01.03. The applicant is the son of the said Rama Das, through his 2nd wife whom he married after the death of the 1st wife. After the death of the father of the applicant, he filed requisite application for compassionate appointment under the dying in harness scheme. The same

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was considered by the Department and as per the order dated 24.02.07 (Annexure-A/16), the claim of the applicant has been rejected ~~on the grounds that~~ as per the guidelines issued by the Department of Personnel and Training (DoP&T) and also in accordance with the order issued, by the Defence Ministry regarding appointment under compassionate scheme. It is further stated in the order under Annexure-A/16 to this Original Application that on comparative assessment of the case of the applicant and the case of others, it is found that the applicant is less eligible in the matter of providing employment assistance. Aggrieved by the above order, the present O.A has been filed.

4. We have heard the Ld. Counsel appearing for the applicant as well as the Standing Counsel for the Respondents. As per the counter filed for and on behalf of the Respondents, it is stated in Annexure-R-7 as follows:

“ While considering cases for compassionate appointment, merits of the cases were conveniently decided by allotting points to the applicants based on various attributes as indicated in the Annexure to the MOD ID No.271/93/D(Lab) dated 02 Nov, 1993. After implementation of the Vth Pay Commission’s recommendation, the points allotted to various aspects like family pension, terminal benefits etc have become redundant. Thereupon, the suggestions/opinion received from various Headquarters in response to MOD ID No.824/D (Lab)/99 dated 12.07.99 have been considered and the competent authority has decided that the revised points based on a hundred point scale as indicated below be attributed to various parameters for a comparatively balanced and objective assessment of requests of really deserving candidates for compassionate appointment.”

It is also contended in the counter that as there are more deserving cases than the applicant, the claim of the applicant has been rejected. Considering the stand taken in the counter affidavit and the documents relied on by the Respondents, it can be seen that the claim of the applicant has been admitted, but his application has been rejected as per the impugned order only because of the reason that there are more deserving cases than the applicant when the application was considered by the Competent authority. But that by itself cannot be taken as grounds for rejection of the claim of the applicant as it is clearly stated in the order of the DoP&T, dated 05.05.2003 that such application can be kept under consideration for three years though within the limited quota of 5% earmarked for such appointment under the compassionate appointment scheme. In the above facts and circumstances of the case and on consideration of the letter of DoP&T, we are of the view that rejection of the application of the applicant is not sustainable and the Respondents have to reconsider his claim 02 more times as per the order of the DoP&T. Hence, we are directing the Respondents to reconsider the applicant's claim for two more consecutive times to get appointment under compassionate appointment scheme.

5. With the above observations and directions this Original Application is disposed of.

Member (A)

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MEMBER (J)