

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 190/1998
~~F.A. No.~~

199-

DATE OF DECISION: 25.02.2000.

Bhanwar Singh Bhati, Petitioner

Mr. P.R. Singh, Advocate for the Petitioner (s)

Versus

Union of India & Ors . Respondent (s)

Mr. K.S. Nahar, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. A.K. Misra, Judicial Member

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *NO.*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *NO*

Gopal Singh
(Gopal Singh)
Adm. Member

A.K. Misra
(A.K. Misra)
Judl. Member

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. : 190/1998

Date of Order : 25²/₂₀₀₀

Bhanwar Singh Bhati, aged about 24 years, S/o Shri Hem Singh Bhati, Ex. Assistant Mechanic C/o Executive Engineer, Central Ground Water Board, Div. XI, Jodhpur C/o Kushal Singh, Guda House Poota 'B' Road, Jodhpur.

..Applicant.

Versus

1. Union of India through the Secretary, Ministry of Water Resources, Central Ground Water Board, New Delhi.
2. The Director (Adm.) Central Ground Water Board, National Highway No. 4, Faridabad.
3. The Administrative Officer, Central Ground Water Board, National Highway No. 4, Faridabad.
4. The Executive Engineer, Central Ground Water Board, Div. XI 22/2, Heavy Industrial Area, Jodhpur.

..Respondents.



Mr. P.R. Singh, counsel for the applicant.

Mr. K.S. Nahar, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. A.K. MISRA :

The applicant has moved this OA with the prayer that the respondents be directed to appoint the applicant on the suitable post on compassionate ground.

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2. Notice of the QA was given to the respondents who have filed their reply.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. It is alleged by the applicant that applicant's father Shri Hem Singh Bhati was serving the respondent department as Assistant Mechanic as a regular employee who died on 05.2.1994 while in active service in the respondent department. It is further alleged by the applicant that he passed secondary examination in the year 1993 and later on passed senior secondary examination in the year 1997. The applicant applied for compassionate appointment on account of death of his father on whom the applicant and his family were dependents. The applicant is the sole bread-winner and is entitled to the appointment on compassionate ground. The respondents considered the case of the applicant for compassionate appointment and informed the applicant that his application has been taken on record and as and when his turn would come, he would be considered for suitable job as per his qualification. However, the respondents have not considered his case for compassionate appointment since 1994 and the matter is lingering on since then. It is further alleged by the applicant that there are clear vacancies in the department on which the applicant could be appointed on compassionate ground. In view of these facts, the applicant has sought the relief as mentioned above.



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5. In reply, the respondents have stated that the case of the applicant for compassionate appointment was considered by a duly constituted Screening Committee alongwith other similarly situated persons but due to non availability of the vacancies, the applicant could not be given immediate appointment as only 5 per cent of the vacancies in the direct quota in Group 'C' and Group 'D' can be filled up on compassionate ground.

It is also stated by the respondents that the name of the applicant has been enlisted by the department for compassionate appointment and his name has also been sent to other departments for consideration for such appointment as there are no clear vacancies presently available in the department. Therefore, the applicant shall have to wait for his turn for such appointment.



6. During the course of arguments, it was submitted by the learned counsel for the applicant that couple of persons have been appointed by the respondent department on compassionate ground in preference to the applicant and thus the department has discriminated the applicant in respect of such appointment. We have considered this argument. In our opinion, there is nothing on record to show that the department has discriminated the applicant in such compassionate appointment vis-a-vis others. Learned counsel for the applicant could not give details as to when these two persons as alleged by him were appointed by the department, as to when the bread-winner of their family died and no detail could also be given by the learned counsel for the applicant that the persons who were given appointment on compassionate ground were

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financially better than the applicant. Therefore, it is difficult to observe that the applicant has been discriminated by the department ⁱⁿ ~~for~~ appointment on compassionate ground as alleged by the applicant. We would point out here that no dependent can claim compassionate appointment as a matter of right. Compassionate appointment can not be sought as a substitute for regular appointment. There are certain circumstances which are considered before a person is found eligible for compassionate appointment. It can not be denied that the departments of Government of India have been instructed to regulate appointment on compassionate ground to the extent of permissible percentage and in view of this position, no direction for such appointment can be given by the Tribunal. All that can be directed is that the eligible candidate should be considered for compassionate appointment keeping in view the family circumstances, financial condition and number of dependents of such claimant in relation to the deceased in whose place compassionate appointment is sought by the candidate. The respondents have stated that the case of the applicant was considered by the Screening Committee and his name has been referred to other Ministries for such appointment because there are no vacancies available in the department. We have got no reason to dis-believe this aspect of the case. From the letter Annexure R/4, it appears that the Director (Administration), respondent No. 2, had written a letter to ^{his} ~~their~~ own Ministry requesting that the department of Personnel and Training be requested to relax the percentage for such appointment or alternatively the name of the persons mentioned in the enclosed list be circulated to other Ministries for appointment on compassionate ground.

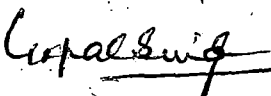
In this list the name of the applicant is listed at serial No. 9, therefore, it can not be said that the department is not attending the request of the applicant. The difficulty which the department is presently facing for extending such appointments is that they can not appoint such candidates in excess of the permitted percentage and in view of this the only thing the applicant has to do is to wait for his turn. In our opinion, no direction for compassionate appointment can be issued to the department. Hon'ble Supreme Court has also propounded that direction for such appointment can not be given and the only direction that can lawfully be given is that of consideration which the department has already shown to the applicant.

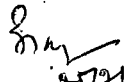


7. The apprehension of the applicant that other candidates are being appointed on compassionate ground preferring the various candidates who are enlisted in the list enclosed to Annexure R/4 can be taken care of by directing the respondent department to strictly adhere to the list as described above in offering appointments on compassionate ground to the enlisted candidates. The applicant can also watch his interest by ensuring that the department does not deviate itself from the said list in such appointment.

8. In our opinion, the CA deserves to be accepted partly.

9. The CA is, therefore, partly accepted. The respondent department is directed to adhere to the list enclosed to Annexure R/4 in offering appointment on compassionate ground to the enlisted candidates. The parties are left to bear their own costs.


(GOPAL SINGH)
MEMBER (A)


(A.K. MISRA)
MEMBER (J)

all copy
for

for H.S. Nahr
2/8/2000

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vs
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