

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

76

Original Application Number : 323 of 2001

Date of Decision : This the 10th day of July, 2002.

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The Hon'ble Mr. Gopal Singh, Administrative Member

The Hon'ble Mr. J.K. Kaushik, Judicial Member

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Smt. Gulab Kanwar Widow of Late Shri Narain Singh aged about 37 years, by caste Rajput Resident of Village and Post Banar, Gujaron Ka Bas, Jodhpur (Rajasthan), Widow Ex. Mazdoor of Commandant 19 FAD C/o 56 A.P.O.

.....Applicant.

By Advocate Mr. S.K. Malik

VERSUS

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhavan, New Delhi.
2. General Officer Commanding-in-Chief, HQ. Southern Command (Ord), Pune-1.
3. Commandant, No. 19 Field Ammunition Depot (FAD), C/o 56 A.P.O.

.....Respondents.

By Advocate Mr. Vinit Mathur.

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O R D E R

PER MR. GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant, Smt. Gulab Kanwar, has prayed for quashing the impugned order dated 9.10.2001 (Annex.A/1) and for a direction to the respondents to consider the case of the applicant for appointment on compassionate ground on a group 'D' post and give her appointment with all consequential benefits.

2. Applicant is the widow of Late Shri Narain Singh,

Compassionate

who was working on the post of Mazdoor (Group 'D') and died on 25th June, 1998 while he was in service. The respondent department has rejected the request of the applicant for compassionate appointment vide impugned order dated 9th October, 2001 (Annex. A/1). Hence, this application.

3. In the counter, it has been stated by the respondents that the case of the applicant was considered on three occasions as per the rules but could not be accepted since other cases under consideration for appointment on compassionate ground, were more indigent than that of the applicant. It is also pointed out by the respondents that all the cases of compassionate appointment falling within a particular Command are examined by a Board of Officers and on the basis of comparative hardship, the appointments are granted on compassionate ground. It has further been stated that most indigent compassionate case is given priority over other lesser indigent and compassionate case. The case of the applicant was considered at the appropriate level along with other cases but other cases were more indigent than that of the applicant and, therefore, the applicant was not given compassionate appointment. The learned counsel for the respondents has also produced before us Rules/Instructions relating to compassionate appointment circulated by the Director General, Ordinance Services, Army Headquarter, New Delhi, vide their letter dated 30th July, 1999. This has been taken on record and is marked as Annex. R/1.

4. We have heard the learned counsel for the parties and perused the record of the case carefully.

Compassion



5. We have carefully examined the Rules/Instructions dated 30th July, 1999. The relevant portion of the Instructions are extracted below :-

"2. Instructions have been issued by this HQ, from time to time, laying down the procedure to be followed in making compassionate appointment of sons/daughters/near relatives of Govt. servants who die in harness or retired on medical grounds. For ease of reference, the orders issued on the subject have been simplified and consolidated in DOP&T OM NO. 14014/6/94-Estt(1) dated 09 Oct. 98. These revised instructions will be implemented with immediate effect. The procedure to be followed in 60C... for granting compassionate appointments will be as laid down in succeeding paras.

3. DETERMINATION OF VACANCIES -

(a) All Command HQs/CODs will submit a report to this HQ by 31 Jan every year, indicating the total wastage of Gp 'C' and 'D' employees separately from 01 Jan to 31 Dec of the previous year as follows :-

(i) Deaths,

(ii) Invalided out on medical grounds upto the age of 55 years for Gp 'C' and 57 years for Gp 'D' employees :

(iii) Normal Retirement/Voluntary Retirement/Termination from service/Invalid out on Medical grounds other than Sub Para (ii) above.

(b) Total vacancies for compassionate appointment will be worked out at 5% of the total wastage in the Corps in the preceding year and vacancies to Commands/CODs will be allotted on pro-rata basis on the number of Deaths/Invalidment cases as per Sub-para (a) Ii) & (ii) by Army HQ.

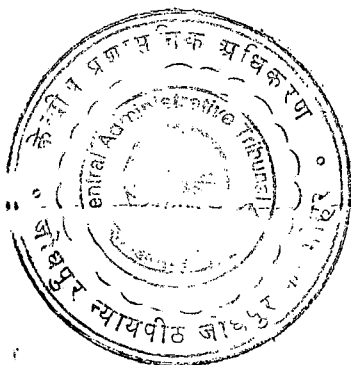
(c) Vacancies will be allotted to AOC (Records) for employment in respect of dependents of combatant personnel of AOC, who die in harness or invalidated out on medical grounds.

4. APPLICATION :

(a) Applications will be called for from the applicant as per Proforma Part 'A' and 'B' as per Appendix 'A' attached to this letter.

(b) Applicants will submit fresh applications each time and their cases will be considered afresh, alongwith all other applicants. This is to ensure

Corps



that any changes in financial/dependency status occurring during the year are incorporated in the fresh application.

5, NO. OF CHANCES, CANDIDATE TO BE CONSIDERED

(a) Case of each individual for compassionate appointment will be considered three times by the Board of Officers. Units / Depots will open a separate file for each candidate when he applies first time, the applicant whose case has been finally rejected will be informed accordingly and advised to seek employment elsewhere. A separate record of all such candidates who have been considered three times and finally rejected will be kept... by Units/Depots concerned for answering any queries at later stage.

8(d) Allocation of Marks

After processing the application and verification on the particulars furnished by the applicant with reference to the service documents of the deceased/retired on medical grounds Govt. servant, the Board of Officers will award marks in the manner given below, to assess the comparative merit of each case :-

(i) Minor Children and un-married daughters -

Maximum 30 (Thirty) marks at the rate of 10 (Ten) marks per minor child/un-married daughter.

(ii) Family Members -

Maximum 10 (Ten) marks at the rate of 2 (Two) marks per dependent member i.e. Father / Mother / Widow / Minor brothers / Unmarried or widowed sisters.

(iii) Number of year of service that the deceased / retired on invalid pension Govt. servant could have served more.

Maximum 40 (Forty) marks at the rate of 2 (Two) marks for each year of service left out.

(iv) Assessment of monthly income

Maximum 20 (Twenty) marks as under, based on monthly family pension, approximate monthly interest @ 11% on lumpsum payments like CGEIS/ GPF/DCRG/Leave Encashment and estimated monthly rental value of immovable property."

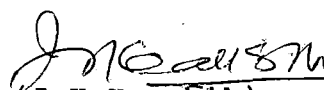
5. It is clear from the instructions reproduced above that a case for compassionate appointment is to be

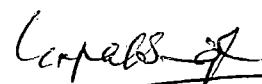
Unpaid



considered three times along with other cases according to the number of vacancies available for compassionate appointment. It is not denied by the applicant that his case has been considered thrice by the Board of Officers and has been finally rejected vide letter dated 9th October, 2001 (Annex.A/1). The applicant has also pointed out a case of Smt. Bismila Widow of Late Shri Wazeer Khan, who has been given compassionate appointment in the similar circumstances. Respondents have in their counter pointed out that as per the marking system provided in the Instructions extracted above, the case of Smt. Bismila was found to be more deserving and indigent than that of the applicant and hence Smt. Bismila was extended compassionate appointment. In these circumstances, we do not find any fault with the respondents in rejecting the case of the applicant so as to call for our interference. Thus, we do not find any merit in this application and the same is liable to be dismissed. The O.A. is accordingly dismissed with no order as to costs.




(J.K. Kaushik)
Judl. Member


(Gopal Singh)
Adm. Member

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Part II and III destroyed
in my presence on 24.7.02
under the supervision of
section officer (J) as per
order dated 14.7.02

Section officer (Record)

4/91
per 5975

R/copy
Ex 17/7