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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

.....

Date of Order : 31.01.2003.

ORIGINAL APPLICATION NO. 239 OF 2001

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Ganesh S/o Late Shri Chote Lal Ji
Aged about 19 years, Resident of Plot No. 181,
Subhash Colony, Bhagat-Ki-Kothi,
Jodhpur (Rajasthan).

Mr. S.K. Malik, for applicant.

.....Applicant.

versus

1. Union of India through the Secretary
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Commanding Officer,
6 F.O.D., C/o 56 A.P.O.

3. Administrative Officer,
6 F.O.D., C/o 56 A.P.O.

.....Respondents.

Mr. Kuldeep Mathur, for respondents.

CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
Hon'ble Mr. A.P. Nagrath, Administrative Member

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ORDER

PER MR. JUSTICE G.L. GUPTA :

The applicant is the son of Late Shri Chootey Lal Ji who died on 25th February, 1996 while serving as Mazdoor in the respondents department. He made an application for giving him employment on compassionate grounds on 17th April, 2000 on attaining majority. His application has been considered by the competent authority but, he has not been provided employment. The intimation Annexure A/1 dated 6th August, 2001, was sent to the applicant rejecting his request. He challenges the intimation Annexure A/1 through this O.A. and prays for a direction to provide employment to him. It is stated that the deceased had left two sons including the applicant and one daughter and widow and there being no other source of income, they are facing great hardship.

2. In the reply, the respondents have stated that the case of the applicant for employment was forwarded to the Headquarter Southern Command duly recommended by the Commandant three times but his case has been rejected as he did not come in the merit.

3. Rejoinder has also been filed to clarify some facts stated in the reply.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. Mr. Malik, learned counsel for the applicant contended that there was no delay on the part of the applicant to make application for employment inasmuch as, soon after he became major, the application was submitted. His contention was that keeping in view the fact that the applicant has got no house and there is no other source of income, employment ought to have been given to the applicant on compassionate grounds.

6. On the other hand, learned counsel for the respondents pointed out that the case of



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the applicant was considered along with many other applicants seeking employment on compassionate grounds but on merits his claim was rejected. It was also contended that there cannot be any justification to direct the respondents to provide employment to the applicant seven years after the death of his father.

7. We have given the matter our thoughtful consideration. It is manifest from the facts stated in the reply and also the original record shown to us during the course of the arguments that the case of the applicant was recommended by the Jodhpur Authorities to the concerned authorities, and his case was considered by the competent authority along with many other applicants seeking employment on compassionate grounds. It is seen that the competent authority considering the circumstances of the other applicants, recommended their employment but did not recommend the case of the applicant.

8. Employment on compassionate grounds can be given to the extent of only 5% vacancies available for direct recruitment. The proceedings placed before us indicate that in Group 'D' only five vacancies could be filled up by the competent authority. The competent authority recommended five persons for the same, of whom four are widows of late government servants. It cannot be said that the competent authority has rejected the application of the applicant arbitrarily.

9. The Courts cannot sit over the decision of the authorities. The Tribunal is not the appellate authority.

10. Apart from that, the object of compassionate employment is to enable the penurious family to tide over the sudden financial crises due to the death of the bread winner and not to provide employment. See: Umesh Kumar Versus State of Haryana [1994 SCC (L&S) 930]. Then it has been held in the case of Sanjay Kumar Versus State of Bihar [2000 SCC (L&S) 895] that there cannot be any reservation of a vacancy for the time the minor becomes major and therefore the Court cannot direct the respondents to give employment to the applicant on his

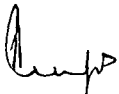


attaining majority after six years after the death of the deceased employee. It has then been held in the case of Union of India Versus Jogindar Sharma [2002 (7) Supreme 83], that the Tribunal cannot direct the authorities to relax the conditions or to create the posts to give employment to the heir of the deceased employee.

11. Keeping in view the decisions of the Hon'ble Supreme Court, this Court cannot be justified in directing the respondents seven years after the death of Chootey Lal Ji to provide employment to the applicant on compassionate grounds.

12. Consequently, there is no merit in this Application which is hereby dismissed.

13.. No order as to costs.



[A.P. Nagrath]
Adm. Member



[G.L. Gupta]
Vice Chairman

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jsv