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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision : 29-10-2002

O.A. No. 342/2001.

Veera Ram S/o Shri Shera Ram Meghwal, aged 20 years,
R/o Village Dunga, Post-Kawas Dist. Barmaer, Deceased
father Ex-Mazdoor 19 FAC/Jodhpur.

... APPLICANT.

V E R S U S

1. Union of India through the Secretary to the Government,
Ministry of Defence, Raksha Bhawan, New Delhi.
2. Hq. Southern Command, Pune,
3. Commandant 19 FAC/Jodhpur.

... RESPONDENTS.

Mr. Vijay Mehta, counsel for the applicant.
Mr. Vinit Mathur, counsel for the respondents.

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

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Shri Veera Ram has filed this Original Application
under Section 19 of the Administrative Tribunals Act,
1985, and has prayed for the following reliefs :-

" That on the basis of facts and grounds mentioned
herewith, the applicant prays that the impugned
order Annexure A-1 may kindly be quashed and set
aside and the respondents may kindly be directed
to give appointment on compassionate grounds to
the applicant forthwith. "

2. The factual profile as set out in application is
that the applicant is the son of Late Shri Shera Ram who
was a permanent government employee in the office of

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3rd respondent. Shri Shera Ram expired on 25.10.1989 while in service and was survived by his widow, three sons and four daughter, the applicant being the eldest son and of eight years of at that time. There was no other earning member in the family and the family remained in indigent condition with no other income except pension of Rs. 1200/- per month.

3. The applicant on attaining majority age, submitted a representation for consideration his appointment on compassionate grounds. Detailed information were called from ~~xxx~~ his mother which were duly furnished. The case has been turned down vide order dated 09.10.2002 (Annexure A-1) without giving any reason or passing a speaking order. The OA has been filed on number of grounds mentioned therein.

4. The respondents have filed a counter reply wherein it has been submitted that a Board of officers examined the matter and considered his case but as per the comparative merit, he did not come within the number of available vacancies.

5. A rejoinder to reply was filed. The respondents also submitted a copy of comparative assessment chart in respect of applicant vis a vis other candidates. The learned counsel pointed out certain discrepancies regarding assigning the marks inasmuch it was pointed out that there were five dependent members but only one was indicated and that too no marks have been given in respect of applicant for minority. The respondents filed amended reply to the original application with due permission fro

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this Tribunal and have submitted that as per service records, there were on two dependents of the deceased government servant.


6. The learned counsel for the applicant has urged that details of the dependents of the deceased government servant have been given ⁱⁿ the original applicant, the same have not been refuted in clear words, not only this, even the correct marking has not been done inasmuch as marks have been given for one dependent and not in respect of two dependents. Further the applicant was admittedly minor at the time of death of his father, but no marks have been given on this count. In this way also, the applicant ought to have got 10 more marks and his score would have been 68 marks, highest in merit, entailing recommendations/appointment as per rules in force.

for respondents

7. The learned counsel repelled the above contentions and has invited my attention towards the application submitted for compassionate appointment. The column relating to the details of dependents, contains only one name that is of the widow of deceased employee. He was however fair enough to submit that in case there has been any calculation mistake in awarding marks, the same could be reviewed by the respondents. But he expressed his inability and was not in a position to ascertain as to at what merit the last candidate was granted appointment on compassionate grounds since the Board of Officers considered the cases of number of units and he was not equipped with complete information/records.

8. I have considered the rival contentions submitted on behalf of parties. As far as a number of dependent members of the deceased employee is concerned, I have no hesitation in accepting the submission of learned counsel for the respondents i.e. there were two dependents as is referred in service records and nothing contrary is indicated in the application preferred for grant of appointment by the applicant on attaining the majority. As regards the assignment of marks, I find that one dependent carries 5 marks ~~xxxxx~~ but in the case of applicant instead of giving 10 marks only 5 marks have been assigned (perhaps only dependent is taken into account). Nextly the applicant has not been shown as minor and no marks have been given. In fact 5 marks ought to have been assigned on this count. Thus there is definitely infirming in assigning the marks and number of dependent, one being minor. The matter needs to ^{be} reviewed. It would have been finalised but since the complete details especially the merit position of last candidate granted appointment, the matter would have to be remanded to the respondents.

9. In view of the foregoing discussions, the OA is disposed of with a direction to the respondents to correctly assign the marks and reassign the merit to the applicant in the comparative chart as per aforesaid observation and in case anyone of lesser merit than the applicant has been appointed, the applicant would be given similar treatment. This exercise shall be carried out within a period of three months from the date of receipt of a copy of this order. Impugned order dated 09.10.2001 (Annexure A-1) stands quashed. No costs.


(J. K. KAUSHIK)
Judicial Member