

2/9/13

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No.232/2005

Date of decision: 03.08.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

Nihal Singh, S/o late Shri Mahaveer Singh Ji aged about 31 years, r/o Ward No. 5 Baba Ramdev Road, Suratgarh, Dist. Sriganganagar (Rajasthan).

Ward of Ex-Khalasi in the office of Junior Engineer Civil Construction Wing (Electrical) All India Radio Suratgarh, Distt. Sri Ganganagar, (Rajasthan)

: applicant.

Rep. By Mr. S.K. Malik : Counsel for the applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Information and Broadcasting Shastri Bhawan, New Delhi.
2. The Director General, All India Radio, Akaswani Bhawan, Parliament Street, New Delhi.
3. The Station Director, All India Radio, Jaipur (Rajasthan)
4. Executive Engineer (Electrical) Civil Construction Wingh (Electrical) all India Radio, 27, Mahadev Road, New Delhi.

: Respondents.

Rep. By Mr. Ravi Bhansali : Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

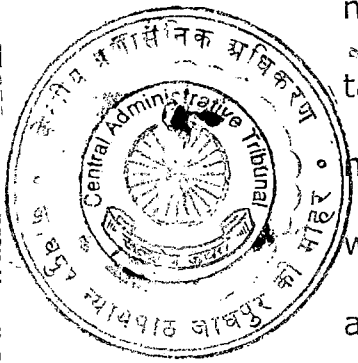
The applicant has assailed a letter dated 22.02.2006 (Annex. A/1) vide which his request for grant of appointment on compassionate ground had been turned down for the reason that the request for grant of compassionate appointment is more than three years old and as per Office Memorandum dated 05.05.2003, issued by the DOPT, the request cannot be granted.



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2. The facts as alleged by the applicant in brief are that the applicant's father late Shri Mahaveer Singh Ji died in harness on 21.05.2001 while working on the post of Khalasi in the office of Junior Engineer, Civil Constructions Wing (Electrical) All India Radio, Suratgarh. After the death of his father, the applicant has applied for appointment on compassionate grounds and submitted his application on the proforma before respondent No. 4 which was received by him on 11.02.2002 i.e. within nine months from the date of death of his father. Since no reply was received, the mother of the applicant again moved another application on 23.07.2002 before respondent No. 4. It is further alleged that R.4, after a lapse of about one year on 28.11.2003, addressed a letter to the Under Secretary to the Ministry of I & B, stating that the case of the applicant for compassionate appointment has already been forwarded to R.3, who is the competent authority for taking necessary action in this regard. Despite that no action had been taken by R.3. It is further stated that the applicant has submitted his application for appointment on compassionate appointment within a period of six months from the date of death of his father and since no action had been taken by the respondents and the mother of the applicant was meeting the officers concerned in this regard frequently, but vide the impugned order the applicant has been informed that his case cannot be considered.



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3. In the grounds of challenge, the applicant has stated that there is no fault on the part of the applicant since he had submitted his application for compassionate appointment within a period of six months from the date of death of his father and the matter was under consideration by the respondents but the rejection had been done in an hyper technical manner which is arbitrary and violative of Articles 14 and 16 of the Constitution of India. As such it is prayed that the applicant is entitled to appointment on compassionate grounds.

4. The respondents are contesting the O.A. In their reply they have stated that the application for compassionate appointment was received at the All India Radio, Jaipur only on 03.10.2003 and which was sent by Respondent No. 4 on 16.09.2003. It is further stated that as the applicant's father died on 21.05.2001 and as per OM No. 14014/19/2002 (Estt.D) dated 05.05.2003, the case of the applicant found to be ineligible, his case was closed and intimation was sent to All India Radio, Jaipur on 22.02.2005. The case was considered and turned down by the competent authority as per OM dated 05.05.2003 and it becomes more than three years



5. We have heard the learned counsel for the parties and perused the pleadings carefully. The learned counsel for the applicant submitted that he submitted his application within one year from the date of death of his father, but the competent

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authority without considering the merits and the vacancy position, rejected his application in an hyper technical manner stating that the matter is more than three years old. The learned counsel further contended that OM dated 05.05.2003, states that in a case where the vacancy for making compassionate appointment is not available in the first year, the case has to be considered for the second year and even then if vacancy is not available it has to be considered for the third year also. He further stated that in this case, without considering the merits of the case and without taking into account the vacancy position, the competent authority has turned down the request without applying his mind stating that the case is more than three years old. The counsel also stated that there is no delay on the part of the applicant and the delay had occurred in the respondents office.

6. In reply, the learned counsel for respondents submitted that the case has been rightly rejected on the basis of OM dated 05.05.2003, issued by the DOPT.

7. In our considered view, the contention of the learned counsel for the respondents has no merit. The OM dated 05.05.2003, makes an enabling provision to the departments to consider an application for appointment on compassionate grounds for another two years, if there is no vacancy available for the first year. In this case, the applicant had applied for compassionate appointment in time and his case was forwarded to the competent authority but




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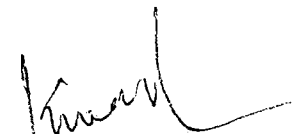
the competent authority just in an hyper technical way turned down the request of the applicant without going into the fact whether any vacancy for making compassionate appointment was available for that particular year or not.

8. In these circumstances, we find that the order issued by the competent authority has been passed in a mechanical way without applying the mind. Therefore, we quash the same and direct the respondents to reconsider the request of the applicant for compassionate appointment on merits and if vacancy for that particular year is available and the applicant is eligible as per rules, the applicant may be given appointment as per the extant rules.

O.A is disposed of as above. No costs.



(Tarsem Lal)
Administrative Member


Jsv.


(Kuldip Singh)
Vice Chairman.

Part II and III destroyed
in my presence on 04-6-14
under the supervision of
section officer () as per
order dated 26.7.14


Section officer (Record)

Rec

S.K. Malik
9/8/07

Copy recd

9/8/07