

15

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 153/2007

Date of decision : 05.02.2009

Hon'ble Mr. Tarsem Lal , Administrative Member.

Bhika Ram, S/o late Shri Shiv Ram aged 23 years R/o C/o Shri Sugan Lal Barasa, harijan Basti, Behind Maharaja Gaje Singh Vishram Grah, Bank Colony, Raikabagh, Jodhpur.; Shri Shiv Ram deceased Safaiwala in the Office of Garrison Engineer (Air Force MES, Uttaralai, District Barmer.

: Applicant.

Mr. Vijay Mehta : Counsel for the applicant.

Versus



1. Union of India, through the Secretary to the Government of India, Ministry of Defence Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES (Air Force), Jodhpur.
3. Chief Engineer (Air Force) MES, Camp Hanuman, Ahmedabad.

: Respondents.

Mr. D.S. Sodha proxy counsel for Mr. Kuldeep Mathur

Counsel for the respondents.

ORDER

Per Mr. Tarsem Lal, Administrative Member.

In this application the applicant has prayed for the following relief:

" that on the basis of facts and grounds mentioned herewith, the applicant prays that order AnneA/1 and proceedings of the BOO mentioned therein may kindly be quashed and the respondents may kindly be directed to give appointment on compassionate grounds to the applicant forthwith. Any other order as deemed fit in the facts and circumstance of the case may kindly be also passed and the costs be also awarded to the applicant"

2. The facts of the case as culled out from the application are as follows:



(2)

The applicant is the son of late Shri Shiv Ram, who was working as Safaiwala under the respondent No.2. Applicant belongs to SC community. His father died on 01.07.2004 while in service. His father left behind him, his widow, two sons including the applicant and three daughters. At the time of death of his father there were three minor children. After the death of his father, the applicant submitted an application in the month of July 2004, for giving him compassionate appointment.

3. The respondent No.3 informed the applicant vide his letter dated 31.03.2005, (Annex.A/3) that his case for compassionate appointment was examined by Board of Officers (BOO for short) but he was not recommended due to more deserving cases were there and only few vacancies were available.

4. Again the respondent No. 3 informed the applicant vide his letter dated 17.10.2005 (Annex.A/3) that the BOO had considered his case but could not recommend since more deserving cases were there and only a few vacancies were available. Lastly the 3rd respondent informed the applicant vide order dated 21.05.2007(Annex.A/1) that the BOO had considered his case and his case could not be recommended due to few vacancies only available. The applicant is challenging the same in this O.A.

5. The applicant has stated that though it is mentioned in order Annex. A/1 that his case will be again considered in the next BOO

(2)

(3)

meeting, no useful purpose will be served by waiting for the outcome of the meeting. He further stated that the instructions mentioned in Annex. A/5 have not been followed properly while making the assessment and since he belongs to SC community reservation should have been applied in his case and the Welfare Officer ought to have visited the family and met the member of the family of the deceased which he failed to do so.

6. In the grounds the applicant has contended that he ought to have been given 81 marks and a candidate having 80 marks was given appointment. He further contended that the respondents have not disclosed as to how his case was examined. The respondents have not followed the principle of reservation mentioned in Annex. A/4 and the applicant's case has not been considered fairly and objectively. The applicant has prayed that the O.A be allowed.

7. The respondents have contested the O.A by filing a detailed reply. It is stated that the deceased government servant's family consists of six dependents and the family is getting Rs. 2737/- as basic pension with dearness relief thereon. Besides, the family had received Rs. 1,43,566/- as DCRG and Rs.2,06.900/- as GPF and DLIS and a sum of nearly Rs.33,000/- as CGIES and LEC and thus a total sum of Rs.3,83,340/- had been paid to the family as terminal benefits.

(A)

8. The respondents have emphatically submitted that compassionate appointment in the department is being provided on the basis of the marks obtained by the family/dependent seeking compassionate appointment under various heads mentioned in the scheme pertaining to compassionate appointment introduced by the department. More over the scheme does not guarantee employment assistant to the bereaved family.

9. The respondents have stated that the applicant's case had been considered regularly by the BOO and the outcome had been communicated to the applicant. Since in all the looks the applicant was getting only lesser marks and it came to light that the deceased had a LIC policy, and that therefore the marks awarded to the applicant was reduced to 77. The respondents have categorically stated in Annex. R/1 that no candidate with less than 77 marks have been given appointment. As the case of the applicant was not at all coming in the merit list he could not be given appointment on compassionate grounds. The respondents have prayed that the O.A be dismissed with costs.

10. The applicant has filed a rejoinder. In the rejoinder, while reiterating the facts mentioned in the O.A., the applicant has stated that the applicant is entitled to get 81 marks and holding of LIC policy has no relevance with the marks. The marks have been reduced wrongly.

(D)

(5)

11. Learned counsel for the parties have been heard. They have generally reiterated the averments already given in their respective pleadings. The learned counsel for the applicant has pleaded that the applicant submitted his application for compassionate appointment in the month of July 2004. Therefore in accordance Ministry of Defence. I.D. No. 19(4)824-99/1998-D (Lab) dated 09.03.2001, the applicant is entitled for 81 marks, whereas the respondents have awarded only 77 marks in the meeting of BOO held on 18th May 2007. The learned counsel for the applicant has brought out that marks awarded against the column Movable/Immovable property for the applicant is 06, where as he is entitled to get 10 marks because in the impugned order dated 21.05.2007 (Annex A/1), against col. (f) it has been stated that moveable/immoveable property of worth Rs. 'NIL'. The learned counsel for the applicant claimed that in case the applicant is given 81 marks he is entitled for getting compassionate appointment.

12. This case has been considered carefully. It is seen that the learned counsel for the applicant has indicated that he is entitled to get 81 marks as per the details given below, whereas the respondents have awarded only 77 marks to the applicant. The respondents have produced statements for period ending March 2009 and June 2009 showing the marks allotted to each candidate against various columns. The details of marks to be allotted to the candidates as indicated in the M/o Defence ID Note dated 09.03.2001 (Annex. A/5) ^{and b} as pointed out by the learned counsel for

(6)

(6)

the applicant and the marks awarded by the BOO in its meeting dated 18.05.2001, are as under:

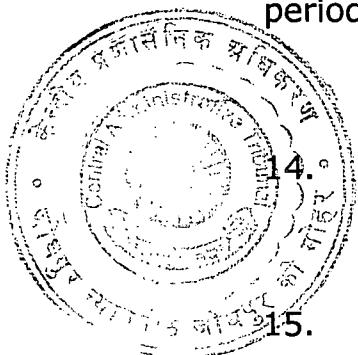
Various Heads	Marks allotted by the BOO on both the occasions	Marks actually to be granted to the applicant
Family Pension	12	12
Terminal benefits	01	01
Monthly income of earning members	05	05
Movable/immovable property	06	10
Number of dependents	15	15
Number of unmarried daughters	15	15
Number of minor children	15	15
Left over service	08	08
Total	77	81

It may be seen from the above that the only discrepancy pointed out by the learned counsel for the applicant is that in case of movable/immovable property, the marks by the BOO should be 10 instead of 06 as in the impugned order dated 21.05.2007 (Annex.A/1), the respondents have stated that the applicant's family is possessing movable/immovable property worth 'NIL' whereas in the statement submitted for consideration of BOO, it has been mentioned that the family is possessing movable/immovable property worth Rs.75,000/-. Therefore the respondents are directed to look into the discrepancy and set right the same.

13. In view of the above discussion, the respondents are directed to consider the case of the applicant once again against the vacancies for the year 2009 and in case the applicant is given compassionate appointment he may be informed about the same accordingly. In case the applicant cannot be given compassionate

(8)

(7) appointment, a comprehensive speaking order may be passed by the respondents. The above action may be completed within a period of six months from the date of receipt of these orders



14. O.A is disposed of accordingly.

15. No costs.

Tarsem Lal 05/11/09
[Tarsem Lal]
Administrative Member

Jsv.

Part II and III destroyed
in my presence on 8/7/15
under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Recd)

Rajiv
Mehta
7/7/15

Rajiv
Mehta
07/07/15
for L. Mehta
per L. Mehta