

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 237/2009

Date of decision: 16th December, 2010.

**CORAM: HON'BLE DR. K.B. SURESH, MEMBER (J) :
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Smt. Gyatri Devi w/o late Sh. Rameswar Lal Joshi, R/o Salamnath Ji Ka Dhora, Gangashahar, Bikaner (Rjasthan), w/o Ex-mate in the Office of GE (A/F) Nal, Bikaner (Rajasthan).

..... Applicant.

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

Versus

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Chief Engineer, Air Force, Head Quarter WAC, Palam, Delhi Cantt-10.
3. The Commander Works Engineer, Air Force, Bikaner.
4. The Garrison Engineer, Air Force, Nal, Bikaner.

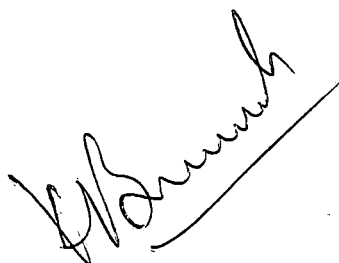
.....Respondents.

Rep. By Mr. M. Godara proxy for Mr. Vinit Mathur, Counsel for the respondents.

ORDER

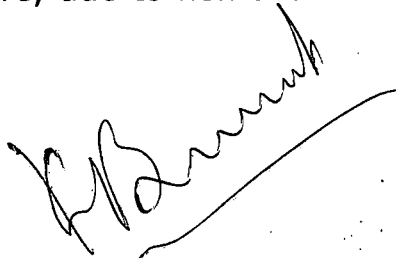
Per DR. K.B. SURESH, Member (A)

Applicant seeks compassionate appointment following the death of her husband Rameshwar Lal Joshi, who after rendering 14 years of service passed away on 10.1.2003, leaving behind at that point of time, 3 members in the family in the age group 15 to 35 including the applicant at that time. A total amount of less than Rs. 1.5 lacs



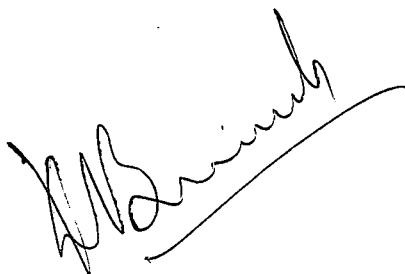
seems to have been paid to her by way of terminal benefits and family pension of Rs. 1618/- seems to be made available to her.

2. Apparently, the respondents wanted a verification done of the date of birth of the applicant even though apparently officers on 30.9.2003 recommended the case of the applicant for compassionate appointment. Apparently, since the documentation was not sufficiently satisfactory and verification by the medical authorities sought for was by one year late and as such date of birth certificate had been submitted. Thereafter, it was required that the senior authority duly authenticate the certificate and such also have been apparently done, but the respondents would say that in 2005 she had been denied the compassionate appointment and the order was communicated to her. She would deny the service of the order on her and she would point out that she had been continuing sending representations on various dates to which she got no response from the respondents. At the time of hearing an opportunity to the applicant/respondents was granted to file affidavit regarding the service of orders on the applicant and the applicant filed an affidavit wherein she had stated that she had not received any order or letter from the respondents whereby she was denied compassionate appointment. The respondents have not filed any such affidavit. It will be assumed therefore that such documentation are not available with the respondents and admitted a fact that such order was not in fact served on her. In their reply the respondents contented that in the year 2003-04 and 2004-05 nil vacancies have been taken into account. Therefore, due to non availability of vacancies her case for



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compassionate appointment could not be considered. They produced a letter as Annexure R-1 dated 5th May, 2003 which is an office memorandum from the DOP&T which mentioned that time framed for consideration shall be 3 years and within the 5% quota. The respondents understood that in a 3 years span it has to be concluded whether or not vacancies are available for any effective consideration to be made possible. It would appear that respondents have not understood the spirit of the Supreme Court Judgment which resulted in the issuance of scheme by the DOP&, wherein consideration for 3 years would mean an effective consideration and it is not possible unless vacancies are reported appropriately and marshaled and comparative analysis of those available for compassion are analyzed in positive light. This has not been done at all. A person getting a family pension of Rs. 1618/- which minor children would definitely deserve to be considered as indigent in the circumstances. Hon'ble Apex Court had time and again said that terminable benefits is not the necessary determinant for indigence, but it is also to be considered in the bargain that the amount of Rs. 1.5 lakhs will not go for in the circumstances. Therefore, non-application of mind by the respondents in assessment is of a more grievous nature. No details are available as to whether they have in fact appointed any in the interim period. Therefore, letter dated 19.9.2005 which have been mentioned in the reply is only a procedure and not an order passed by the respondents denying the claim of the applicant. But, it is made clear that if at all any formal rejection of the claim of the



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applicant has been made it shall be considered as quashed.

Therefore, the following directions are issued:-

- i) The case of the applicant for compassionate appointment shall be considered on the basis of comparative analysis for 3 consecutive in turns after vacancies are marshaled^{ed}, and if to be found sufficient in in number for any fresh consideration so as to be adequately justifiable and for each of these occasions the applicant shall be informed of the details of her consideration by a speaking order maintaining full transparency. The O.A. is allowed to the extent above. No order as to costs.


(SUDHIR KUMAR)
MEMBER(A)


[DR. K.B. SURESH]
MEMBER (J)

SK

दिनांक B/1/116 के आदेशानुसार
प्रेसी व्यसिधति में दिनांक 12/2/116
को धम-11 व 11 गट्ट किए गए ।

अनुमान अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
खोसपुर न्यायपीठ, जोधपुर