

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

**Original Application No.223/2010
With
Misc. Application No.128/2010**

Date of decision: 06.05.2011

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Rajbala Wd/o Late Shri Gurdyal Singh, aged about 40 years, by caste Kumhar, R/o village Ramgarh, Tehsil Nohar, District Hanumangarh. Husband was working on the post of Mate (Electrician) in the office of GE, MES, Lalgarh Jattan.

: Applicant.

For Applicant: Mr. S.S. Gaur, Advocate.

Versus

1. The Union of India through the Secretary to the Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, MES, Bathinda Zone, Bathinda Military Station.
3. Commander Works Engineer, MES, Sri Ganganagar.
4. Kamla Devi Wd/o Late Shri Prem Singh Rathore (Peon of CWE Hisar), working as peon posted in office of Garrison Engineer, CWE, Hisar.

: Respondents.

For Respondent No.1 to 3: Mr. Kuldeep Mathur, Advocate.
None is appearing on behalf of respondent No.4

ORDER (ORAL)

Per Mr. Justice S.M.M. Alam, Judicial Member.

Misc. Application No.128/2010

Perused the Misc. Application No.128/2010 for condonation of delay. The grounds mentioned in the application for condoning the delay in filing of the Original Application No.223/2010 appears to be genuine as such this Misc. Application is allowed and the delay in filing the O.A. No.223/2010 is hereby condoned.

Original Application No.223/2010

2. Applicant Rajbala wife of Late Shri Gurdyal Singh, deceased employee, who was working on the post of Mate Electrician in the office of GE, MES, Lalgarh Jattan and died while in active service, has preferred this original application for compassionate appointment.

3. The brief facts of the case are as follows.

The applicant is widow of Shri Gurdyal Singh, who was a permanent employee working on the post of Mate (Electrician) in the office of GE, MES, Lalgarh Jattan. He died on 08.05.2005, while attending his duties, leaving behind him his two minor sons namely Mukesh and Sunil besides his widow (applicant). His family has no means to sustain and has no earnings from any other source as the family of the deceased does not own any movable and immovable property. After the death of her husband, the applicant filed an application for her appointment on compassionate grounds. Thereafter, she again submitted a fresh application on 21.09.2005 but the respondent No.2 vide his order dated 23.05.2007 (Annexure-A/1) dismissed the application of the applicant. Thereafter, the applicant filed an Original Application bearing O.A.No.167/2008 against the said order (Annexure-A/6) and the same was disposed of vide order dated 08.05.2009 without touching the merit of the case, directing the applicant to file a fresh representation before the respondents, which will be disposed of by

the respondents within a period of six months. It is further stated that after the said order of the Tribunal, the respondents vide letter dated 25.08.2009 (Annexure-A/2) forwarded the merit list prepared on 30.06.2007 to the applicant and then the applicant again preferred this O.A. challenging the validity of the order dated 23.05.2007 (Annexure-A/1) as well as the merit list prepared on 30.06.2007 (Annexure-A/2).

4. On filing of the O.A, notices were issued to the respondents and in response to the notices the respondents appeared before this Tribunal through lawyer and filed reply to the O.A. As per the reply of the respondents No.1 to 4, the case of the respondents is that the request for compassionate appointment of the applicant was examined in an objective manner by the competent authority as per the existing rules and policy of Government of India, and in the light of the decision of the Hon'ble Apex Court of India, and on considering the following factors i.e. size of the family, amounts of terminal benefits, amounts of family pension, liability in terms of unmarried daughters, minor children etc., and movable & immovable properties left by the deceased, it was found that the case of the applicant does not fall within deserving cases in comparison to the other candidates. On the above ground, the respondents No.1 to 4 have prayed for dismissing the original application filed by the applicant.

Yours

16

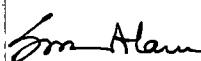
5. During the course of argument, Mr. S.S. Gaur, the learned advocate appearing for the applicant submitted that as per the order dated 08.05.2009 passed by this Tribunal in O.A. No.167/2008 (Annexure-A/6), this Court had accepted the submission of the learned advocate of the applicant that the applicant should be permitted to file a fresh representation before the respondents for providing compassionate appointment, and in the event of filing fresh representation the respondents may be asked to dispose of the said representation within a period of six months, and accordingly the Tribunal had issued direction to the respondents. But in spite of the direction of the Tribunal, the respondents did not pass any fresh/final order on the representation of the applicant and instead of that the respondents issued a photocopy of mark sheet prepared by the Board of Officers for compassionate appointment, which was prepared on 30.06.2007. The learned advocate submitted that the above fact especially Annexure-A/2 shows that no fresh order was passed on the representation of the applicant by the respondents as per the direction contained in the order dated 08.05.2009 passed in O.A. No.167/2008.

6. In reply to this argument of the learned advocate of the applicant, Mr. Kuldeep Mathur, learned counsel appearing on behalf of respondents No.1 to 4, failed to satisfy this Court that in view of the direction contained in the order dated 08.05.2009 any fresh order was passed by the respondents on the representation filed by

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the applicant. In such view of the matter I am of the view that there is need to issue fresh direction to the respondents to comply the order of this Tribunal dated 08.05.2009 passed in O.A. No.167/2008, and reconsider the case of the applicant for appointment on compassionate ground and pass a reasoned and speaking order considering this fact that the applicant's husband had died due to electric shock while performing his official duties.

7. In the result, this O.A. is allowed and the respondents are directed to decide the representation of the applicant afresh and reconsider the case of the applicant for compassionate appointment keeping in mind that the applicant's husband died in course of his attending duty as a result of receiving electric shock. It is observed that the respondents shall complete this exercise within a period of six months and shall pass a reasoned and speaking order in this regard. However, in the circumstances of the case, there will be no order as to costs.



[Justice S.M.M. Alam]
Judicial Member