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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

O. A. No. 25/2011 with M.A.NO. 25/2011

Date of Order : 22.02.2012

CORAM:

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Jitendra S/o Late Shri Babulal, aged about 32 years, resident of Civil Airport Road Ke piche, Pabupura, Jodhpur (Raj), applicant's father was working as a Chowkidar under respondent No. 3.Applicant.

(By Miss Pintu Pareek, Advocate)

Versus

- 1- Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
- 2- The Chief Engineer, Bhopal Zone (MES), S.L. Lines, Bhopal.
- 3- The Garrison Engineer (GE), MES, (EP), Jodhpur (Raj).

.....Respondents.

(By Mr. D.S.Sodha for Mr. Kuldeep Mathur, Advocate)

O R D E R

[PER JUSTICE S. C. SHARMA, JUDICIAL MEMBER]

The instant O.A. has been filed praying for the following reliefs :-

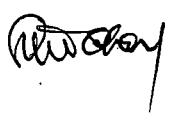
- i) Provide appointment to the applicant on a suitable post on compassionate ground.**
- ii) In the alternative the respondents may kindly be directed to consider the case of the applicant for appointment on compassionate ground.**
- iii) Any other order or direction which this Hon'ble Tribunal deems proper may kindly be passed in favour of the applicant".**

2. The facts of the case may be summarized as follows. It has been alleged by the applicant that his father Late Shri Babu Lal, was working in the respondent department on the post of Chowkidar. He



had already put in 30 years of service and left behind his wife and two sons Jitendra and Deepak and the father of the applicant was the only bread earner of the family and both the sons of the deceased are un-employed. The younger son of the deceased submitted an application for compassionate appointment but the application was rejected without any valid reasons. Hence, the OA was filed before the Tribunal and the same was decided on 26.07.2005 and a direction was given by the Tribunal to consider the case of the applicant for compassionate appointment but, the respondents rejected the candidature of the applicant on the ground that Rs. 2,42,787/- was paid to the widow of the deceased towards terminal benefits and she is getting Rs. 1937/- as family pension besides D.A.

3. It is alleged that the financial condition of the family is miserable and there is no source of livelihood. The respondents contended the case and filed their reply and denied the allegations raised. However, it has also been alleged that an application was submitted by the applicant seeking compassionate appointment and such application was considered by the Department in the objective manner and the candidature of the applicant was considered as per the Guidelines issued by the Department of Personnel & Training and in view of various judgments of the Hon'ble Supreme Court. However, it has also been commented by the Hon'ble Apex Court that compassionate appointment is not a matter of right. The offer of assessment of the circumstances were examined and the background of the family was also considered in view of the judgment of the Hon'ble Supreme Court. The compassionate appointment is to be given against 5% direct recruitment vacancies and the candidature



of the applicant vis-à-vis other candidates were considered and the respondents considered the case of the applicant as per the parameters provided in the Guidelines in the Ministries of the DOP&T as well as the judgment of the Hon'ble Supreme Court and the applicant was not found fit and the O.A. lacks merit and it should be dismissed.

4. We have heard Miss Pintu Pareek, learned counsel for applicant and Mr. D.S.Sodha, proxy for Mr. Kuldeep Mathur, learned counsel for respondents and perused the entire records of the case. It is a settled position of law as per the decisions of the Hon'ble Supreme Court that the compassionate appointment is to be offered to a family member of the deceased if the family is in indigent condition and facing financial hardship and that it is not a matter of right which accrued in favour of the family of the deceased. The compassionate appointment is to be given only to over-come the financial hardship occurred to the family after the death of the sole bread-earner of the family.

5. We have perused the speaking order passed by the respondents on 31.08.2008 and the respondents have considered all the parameters required to consider the case of compassionate appointment. Even the judgment of the Hon'ble Supreme Court delivered in the case of **Umesh Kumar Nagpal Vs. State of Himachal Pradesh** was also considered. The appointment is to be given against 5% of the vacancies of the particular year.

6. It has been alleged by the applicant that the father of the applicant has left his widow and two sons namely Jitendra and Deepak. The younger son Jitendra submitted an application for

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compassionate appointment which is Annex.A/2 of the O.A. and this application was submitted on 26.07.2005 and it has been alleged in the application that the date of birth of the applicant is 21.12.1978 and at present the applicant is more than 30 years of age. At the time of death of his father, the age of the applicant was about 29 years and another son Deepak was born on 28.03.1973 and he was aged about 32 years at the time of submission of the application in the year 2005. The deceased had two grown up children and it is not expected that both these two grown up sons are being unemployed up to that age. There is no burden on the family of the un-married daughter of the deceased. There is only a widow of the deceased and terminal benefits were paid to the tune of more than Rs. 2 Lakhs and the widow is also entitled to monthly pension @ Rs. 1937/- besides the D.A. and considering the mature age of the deceased and the age of the applicant and the financial condition of the applicant, the respondents rejected the candidature of the applicant. Along with the application of the applicant the candidature of other candidates were also considered. Certain parameters have been provided by the Departmental of Personnel and Training as well as by the Hon'ble Supreme Court also. We are aware of the position that compassionate appointment is not an avenue for the employment to the unemployed persons, but, the purpose, intention and the object for providing the compassionate appointment is that the family after the death of the sole bread earner may not come at the starving condition and in order to maintain and over-come the family from the financial distress only, there is a provision for compassionate appointment.

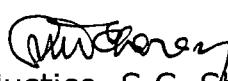
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7. The respondents have considered all the aspects of the case and have arrived at the conclusion that the case of the applicant is not fit for giving compassionate appointment and we are also of the opinion that considering the age of the deceased as well as the age of the sons, the condition of the family is not such from which it can be inferred that the family is in penurious condition or indigent condition. Moreover, the deceased died in 2003 and still the family is surviving after the death of the deceased and the applicant and his brother can earn the livelihood for themselves.

8. For the reasons mentioned above, we are of the opinion that the applicant's case is not fit for giving direction to the respondents to consider the case of the applicant again as all the aspects and parameters were considered by the respondents at the time of considering the application of the applicant. The O.A. is dismissed. The M.A. is also stands disposed of accordingly.



(Sudhir Kumar)
Administrative Member



(Justice. S.C. Sharma)
Judicial Member

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