

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.403/2012

Jodhpur this the 21st day of August, 2013

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J),

Nitesh Singh Inda S/o Late Shri Mohinder Singh, aged about 20 years, R/o Ward No.32, Near Old IB, Modern Market Bikaner, Rajasthan, Ward of Late Shri Mohinder Singh, Painter HS II, under GE (N), Bikaner.

.....Applicant
(By Advocate Shri S.K.Malik)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Chief Engineer, Bathinda Zone, Bathinda Military Station.
3. The Commander Works Engineer (AF), Bikaner, Rajasthan.
4. The Garrison Engineer (N), Bikaner, Rajasthan.

.....Respondents
(By Advocate Smt. K. Parveen)

ORDER (Oral)

By way of this application, applicant Nitesh Singh Inda has challenged the legality of the orders at Annexures-A/1 and A/2.

2. The nub of the application is that the father of the applicant Late Shri Mohinder Singh while working on the post of Painter HS II under GE (N) died on 19.03.2009 due to failure of kidney and left behind his wife, old age mother, two sons and one daughter.

The applicant being the eldest son of deceased employee and possessing the qualification of 8th class, applied for compassionate appointment through respondent No.4 on any post of Group 'D' like Mazdoor, Peon, Driver etc. submitting that there is no source of income, whatsoever, other than meager family pension to support the family condition of deceased employee, which shows that the condition of his family is very indigent. The respondent department after keeping the case of the applicant pending for consideration for almost two years, rejected the claim of the applicant vide impugned orders dated 06.08.2011 and 22.11.2011 (Annexures-A/1 & A/2). It has been averred in the application that the orders at Annexures-A/1 & A/2 are stereotype non-speaking orders and have been passed without application of mind. These orders are also violative of Constitution of India and therefore the same deserve to be quashed and set aside. Hence, the applicant by way of this application has prayed for the following reliefs:-

- (a) By an appropriate writ order or direction impugned orders dated 06.08.2011 at Annexure-A/1 and impugned order dated 22.11.2011 at Annexure-A/2 be declared illegal and be quashed and set aside.
- (b) By an order or direction respondents may be directed to consider the case of applicant for compassionate appointment for any Group 'D' post and give him appointment with all consequential benefits.
- (c) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice."

3. After filing of the OA, notices were issued to the respondents on 09.10.2012 and four weeks' time was granted to file reply upto 01.02.2013. Thereafter, on 20.03.2013 three weeks' time, on

03.05.2013 two weeks' time, on 27.05.2013 six weeks' time, and on 24.07.2013 two weeks time was granted to the respondents to file reply but till today no reply has been filed. Today also, counsel for the respondents seeks time to file reply. As the matter relates to compassionate appointment to the dependent of deceased Government servant, therefore, no further time was granted to the respondents to file reply and I am proposing to dispose of this application on the basis of averments made in the OA as well as oral submissions made by the counsel for the respondents.

4. Heard both the parties. Counsel for the applicant submits that the Annexures-A/1 & A/2 are stereotype orders, as it does not mention the reasons of rejection of the application of the applicant for appointment on compassionate grounds. The respondent ~~despite~~ did not take into consideration the fact that family of the deceased has no source of income except the ~~legal~~ pension. The family is consisting of his wife, old age mother, two sons and one daughter. Therefore, no proper consideration was made by the respondent department while considering candidature of the applicant for appointment on compassionate grounds and the Annexures-A/1 & A/2 are liable to be quashed and set aside.

5. Counsel for the respondents submits that Annexures-A/1 & A/2 clearly show that the deceased Government servant's family

received Rs.8,47,178/- as terminal benefits and at present they are in receipt of monthly pension of Rs.6700/-. Therefore, Board of Officers at Army Headquarters after taking into account each and every aspect considered the candidature of the applicant and rejected the same as his case was not found fit for compassionate appointment.

6. I have considered the rival contentions of both the parties and also perused the pleadings available on record. Perusal of the Annexures-A/1 & A/2 clearly reveal that both the orders are stereotype and contain the same facts. These orders do not contain how much marks applicant have received vis-à-vis other candidates and how the other factors were considered regarding allotment of marks.

7. Counsel for the respondents while arguing the case filed a copy of the speaking order first look dated 24.12.2012. I have also considered that letter. But from the said letter also, it is not clear as to how the case of the applicant was found less meritorious than the other eligible candidates. Therefore, looking to the facts and circumstances of the case, the orders at Annexures-A/1 and A/2 are quashed and the respondent department is directed to reconsider the case of the applicant for appointment on compassionate grounds within four months from the date of receipt of this order and inform

the applicant by passing a reasoned and speaking order. In case the applicant is found eligible, the respondent department is directed to appoint the applicant as per rules.

8. The OA is disposed of accordingly with no order as to costs.


(Justice K.C. Joshi)
Judicial Member