

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.124/2013

Jodhpur, this the 17th day of January, 2014

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)

Puneet Kumar s/o Late Shri Daulat Ram, aged about 19 years, r/o 26 PBN, Tehsil Pilibanga, District Hanumangarh, deceased-ex-Mate in the office of Garrison Engineer, Air Force, MES, Suratgarh, District Sri Ganganagar.

..... Applicant
By Advocate : Mr. Vijay Mehta

Vs.

1. Union of India through the Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Chief Engineer, Western Command, Chandi Mandir, Punjab.
3. Chief Engineer, Air Force, WAC, Palam, Delhi Cantt.
4. Commander Works Engineer, Air Force, MES, Bikaner.
5. Garrison Engineer, MES, Air Force, Suratgarh, District Sri Ganganagar.

... Respondents

By Advocate : Ms. K.Parveen

ORDER (ORAL)

Per Justice K.C.Joshi, Member (J)

The applicant has filed the present OA against the order dated 10.1.2013 (Ann.A/1) whereby his claim for appointment on



compassionate grounds has not been considered by the respondent-department.

2. Brief fact of the case are that father of the applicant was working as Mate in the office of respondent No.5 and expired on 27.5.2005. The deceased employee left behind his widow Smt. Birma Devi, two sons and two daughters. All the sons and daughters were minor at the time of the death of the deceased employee. On attaining the age of majority, the applicant submitted application on 29.6.2011 to the respondents for appointment on compassionate grounds. Respondent No.5 recommended and forwarded the application with his recommendation together with all the documents to higher authorities. But the respondents returned the case holding that as per Government's policy one dependant of the deceased can apply for one time for such appointment within three years from the date of death. Thereafter mother of the applicant submitted representation to review the matter, but her representation was rejected. The applicant has averred that he has not been held as not indigent and the appointment has been refused on the ground that the case is more than five years old and since case of his mother had already been considered, his case cannot now be considered, but it was the duty of the respondent to consider case of the applicant who had applied for appointment on attaining the age of majority. The applicant has submitted that vide OM dated 26.7.2012 it has been clarified that any application for compassionate appointment is to be considered without any time limit and decision is required to be taken on merit in each

case. The Ministry of Defence order dated 9.3.2001 prescribes merit points and revised procedure for selection, but the respondents have neither considered the case of the applicant on merit according to the scheme nor according to order dated 9.3.2001. Therefore, aggrieved of the action of the respondents, the applicant has filed the present OA praying for the following reliefs:-

"That on the basis of facts and grounds mentioned herewith, the applicant prays that orders Ann A1 and Ann A2 may kindly be quashed and the respondents may kindly be directed to consider the case of the applicant in accordance with the Scheme and instruction and to give appointment on compassionate grounds to the applicant forthwith. Any other order as deemed fit in the facts and circumstances of the case may kindly be also passed and the costs be also awarded to the applicant."

3. The respondents have filed reply and denied the right of the applicant submitting that after death of the deceased employee, his widow Smt. Birma Devi applied and her case was considered for appointment on compassionate grounds according to Government laid down policies by the Board of Officers held during the quarter ending Sept. 2006, Dec. 2006, March, 2007 and June, 2007 but her case could come in the merit due to non availability of vacancy and case for compassionate appointment was finally closed in June, 2007 after 4th and final consideration. On release of vacancies for the year 2009-10, 2010-11 and 2011-12 for making appointment, the case was not re-opened being more than three years old. The respondents have further submitted that the quota prescribed for compassionate appointment is only 5% of the total direct recruitment vacancies occurring in a year and therefore, no case is considered individually or unit wise, but all the cases received from various units are considered

by the Board of Officers constituted at the Chief Engineer Zone as per the Govt. policy to find out the most deserving case in acute financial distress/more indigent in comparison to other similarly placed cases. The respondents have further submitted that case of applicant's mother has already been considered and closed as per policy on the subject, therefore, case of the applicant cannot be considered.

4. Heard both the parties. The counsel for the applicant contended that the applicant's mother Smt. Birma Devi was informed by the respondents vide Annex. A/1 regarding rejection of claim for appointment on compassionate grounds of her son and she was further informed that new cases falling within 5 years and not considered for 3 years, when vacancies are available, is to be considered. He further contended that respondent-department informed that case of only one dependent of deceased Govt. servant is considered, and once the claim of her mother of the applicant for appointment on compassionate ground has been considered, claim of the applicant for appointment on compassionate ground cannot be considered. The learned counsel further contended that after informing the mother of the applicant vide Annex. A/1, the respondent-department issued letter dated 24.7.2013 (Annex. A/7) to the applicant and called him for interview on 29.07.2013 and the applicant appeared for the interview, but his case was not considered by the respondent-department.

5. Per contra, counsel for the respondents contended that the applicant's mother herself applied for appointment on compassionate grounds and her case was considered for 4 times during the quarter ending September, 2006, December, 2006, March, 2007 and June, 2007 in Mazdoor category, but due to low merit and non availability of vacancies in

that category, her case was rejected. Later on, her son i.e. the applicant after attaining the age of majority applied for the same post but as per memorandum dated 26.07.2013 of Department of Personnel and Training (Annex. R/1) and D.G. (Pers.), MES letter dated 16.11.2012 (Annex. R/2), the case of another dependent cannot be considered.

6. I have considered rival contentions of both the parties and also perused the record. As per Annex. R/1, once the case of mother of the applicant was considered for appointment on compassionate ground then case of the applicant after attaining the age of majority, cannot be considered, but if the applicant has been called for interview then he must be informed the result of the said interview by the respondent-department as per law.

7. Therefore, I propose to dispose of this OA with direction that since the respondent-department called the applicant for interview vide letter dated 24.7.2013 (Annex. A/7), therefore, the respondents must inform the applicant with a reasoned order the result of his candidature for the appointment within 3 months from the date of receipt of this order.

8. In terms of above directions, OA stands disposed of with no order as to costs.


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

R/ss