

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 489/2013

Jodhpur this the 19th April, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Administrative Member

Pradeep Charan S/o Late Shri B.D. Barath, aged about 29 years, Resident of Plot No. 32, Mahaveer Nagar, Mahamandir, Jodhpur

.....Applicant

(By advocate : None present)

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, New Delhi.
2. The Commissioner, Central Excise, New Central Revenue Building, Statue Circle, C-Scheme, Jaipur-I (Raj).
3. The Additional Commissioner (P&V), Central Excise, New Central Revenue Building, Statue Circle, C-Scheme, Jaipur-I (Raj).

(By Advocate : Mr B.L. Tiwari)

.....Respondents

ORDER (Oral)


The present application has been filed for quashing and setting aside the order dated 17.06.2013 (Annex. A/1) whereby the case of the applicant for compassionate appointment has been rejected and it was further

applicant has also sought direction upon the respondents to appoint him on any suitable post on compassionate ground in accordance with his qualification .

2. In brief, the case of the applicant is that his father Late Shri B.D. Barath posted as Superintendent in Central Excise died on 08.01.2004 while in service and he applied for compassionate appointment vide Annex. A/3. Thereafter, the respondents rejected his case vide order dated 13.07.2009 (Annex. A/8) on the ground that the case of the applicant has been closed after completion of maximum prescribed period of three years from the date of death of his father due to non-availability of vacancy for compassionate appointment. Thereafter, one of the candidate whose case was rejected on the same ground i.e. Smt. Pramila Devi preferred an O.A. No. 94/2007 which was disposed of vide order dated 15.01.2009 directing the respondents to consider the case of the applicant within 03 months of availability of vacancies or receipt of the order, whichever is earlier. The respondents challenged the order of the Tribunal in D.B.C.W.P. No. 5682/2009 before Hon'ble Rajasthan High Court but the same was dismissed vide judgment dated 07.04.2010 (Annex. A/10). The applicant preferred an OA No. 63/2012 on the same premise which was disposed of with the directions as passed in the Pramila Devi's case vide order dated 15.01.2013. Thereafter, the respondents in compliance of order dated 15.01.2013, considered the case of the applicant but did not recommend the same for compassionate appointment. They kept it pending for

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Being aggrieved by the order dated 17.06.2013 (Annex. A/1) the applicant has preferred the present OA.

3. By way of additional affidavit, the applicant has averred that the respondents have given an information under RTI Act, 2005 regarding availability of vacancy according to which there were 71.70 vacancies and 5% of the same i.e. compassionate appointment quota comes to 3.58 vacancies rounded off to 04 in accordance with the OM dated 28.12.1999 (Annex. A/20) and thus, there were 04 vacancies available to the respondents to be filled up by the compassionate appointment whereas they filled up only 03 vacancies.

4. The respondents in reply, inter-alia took the stand that the prescribed Committee in its meeting held on 04.06.2013 decided to fill up 03 existing vacancies under compassionate appointment quota, which arose during the year 2012-13. The Committee after detailed deliberations, found three suitable/deserving dependents against the said 03 vacancies than the applicant. In view of non-availability of more vacancies under compassionate appointment quota, they recommended to keep the case of the applicant pending for consideration by the next Committee.

5. During the course of hearing today, Ld. Counsel for respondents drew my attention to minutes of meeting of the Committee held on 31.10.2014 in which it has been recorded by the Committee that the Committee found more suitable/deserving eleven applicants against 11 vacancies under compassionate appointment quota than Shri Pradeep

compassionate appointment quota, his case has been kept pending for consideration by the next Committee in terms of DoPT OM No. 14014/3/2011 dated 26.07.2012 and other related instructions in the matter.

6. I have perused the OA, rejoinder and additional affidavit filed by the applicant as well as reply filed by the respondents. Although, counsel for applicant is not present today but in the interest of justice matter is finally decided today.

7. The applicant challenged the legality of Annex. A/1 mainly on the ground that had the respondents taken the 04 vacancies for compassionate appointment into account, the case of the applicant would have been recommended for compassionate appointment in the Committee meeting held on 04.06.2013. However, the respondents considered his case again for the second time in Committee meeting dated 31.10.2014 and found 11 more deserving cases than the applicant. The Committee has kept the case of the applicant pending for consideration by the next Committee. Here, the applicant has not challenged the order dated 17.06.2013 (Annex. A/1) on the ground of erroneous evaluation of his case, or alleged any discrimination. Therefore, I see no reason to interfere with the earlier order.

8. However, the respondents are directed to consider the case of the *Qashaf* applicant against available vacancies in the next Committee meeting and grant him compassionate appointment, if found fit as per Scheme/Rules. Thereafter, if any grievance remains to the applicant, he is free to approach

9. In terms of above directions, OA is disposed of. No costs.


[Praveen Mahajan]
Administrative Member

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