

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No.290/00261/2014
With MA No.290/00294/2014**

Reserved on: 18.11.2016

Jodhpur, this the 9th day of December, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Mangla Ram s/o Late Sh. Chandu Ram aged about 21 years, r/o Plot No.25, Laxman Nagar (C) Nandri Jodhpur, Rajasthan. Ward of Ex. Late Sh. Chandu Ram, Majdoor in the office of 19 Field Ammunition Depot C/o 56 APO.

.....Applicant

By Advocate: Mr.S.K.Malik

Versus

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Commander, 19 Field Ammunition Depot C/o 56 APO.
3. Personnel Officer, 19 Field Ammunition Depot C/o 56 APO.

.....Respondents

By Advocate : Mr. K.S.Yadav

ORDER

In the OA, the applicant has challenged the impugned order dated 9.10.2001 (Ann.A/1) whereby the case of mother of the applicant for compassionate appointment has been rejected by the respondents. In relief, he has prayed that the order dated 9.10.2001 may be declared illegal and be quashed and set-aside.

2. Brief facts of the case are that father of the applicant late Shri Chandu Ram, while working on the post of Majdoor expired on 16.1.2000 (Ann.A/2). The family of the deceased consisted of his wife, three minor daughters and three minor sons. After the death, his wife was asked for compassionate appointment, but she declined and requested the respondents to reserve the post for her eldest son on attaining the age of majority, but the respondents rejected the claim vide order dated 9.10.2001 (Ann.A/1). The respondents after six years issued PPO and Gratuity vide letter dated 27.4.2006 (Ann.A/4). The applicant completed Senior Secondary in the year 2010 and thereafter mother of the applicant moved an application for compassionate appointment in favour of the applicant on his attaining the age of majority. After receiving the application, respondent No.3 vide letter dated 3.6.2010 (Ann.A/6) forwarded the copy of the impugned order dated 9.10.2001. Thereafter, on the application of the applicant, respondent vide letter dated 16.7.2012 (Ann.A/7) stated that the case has already been considered, rejected and communicated to the mother of the applicant. The applicant again took up the matter with the respondents. Upon this, the respondents vide letter dated 22.2.2014 (Ann.A/8) forwarded the case of the applicant to higher authorities. Vide letters dated 16.5.2014 and 5.6.2014 (Ann.A/9 and A/10 respectively), the respondents have reiterated the position stating the mother of the

applicant has already been informed of their decision vide impugned order dated 9.10.2001. The applicant avers that out of three daughters of the deceased, one daughter is handicapped and having 60% disability and he has to lookafter the handicapped sister and the entire family by doing labour job. The respondents would have considered the case of the applicant at the time of the death of his father, but given that his mother is illiterate, and was given assurance by the then Commander, to consider the case of her eldest son after attaining the age of majority. This, he avers, is usually done by the respondents in the case of minor children. Hence, aggrieved by the subsequent rejection of his request by the respondents, the applicant has filed the present OA.

3. In reply, the respondents submitted that at the time of death, father of the applicant completed 25 years and 3 months of net qualifying service and all terminal benefits were paid to his wife. As per policy on compassionate appointment, letter dated 10.3.2000 was sent to Smt. Raju Devi to submit application along with relevant documents for preparation and processing of compassionate appointment. Smt. Raju Devi has proposed her name and submitted application for appointment alongwith affidavit regarding no objection of all the family members. Accordingly, her case was prepared and submitted to HQ

Southern Command vide letter dated 28.6.2000. In turn, the HQ Southern Command vide letter dated 12.10.2000 intimated that her name was not selected by the Board of Officers for employment as she did not come in the merit list. The individual was informed accordingly vide letter dated 22.11.2000. Her case was resubmitted to HQ Southern Command vide letter dated 6.12.2000 for reconsideration 2nd time, but her case was not considered. Vide letter dated 14.3.2001 it was informed to HQ Southern Command that all cases including that of Smt. Raju Devi held with them may be reconsidered but her case was not considered for employment in relaxation to the normal rules and she was also informed vide letter dated 9.10.2001. After a lapse of more than 10 years, the applicant directly forwarded his application to HQ Southern Command (Ord) asking for present position of his mother's appointment. Accordingly, a letter dated 16.7.2012 was sent to his address intimating that she had already been informed the status of her case vide letter dated 9.10.2001 under intimation of HQ Southern Command (Ord.). The applicant submitted another application for grant of appointment on compassionate ground during February, 2014. In turn, vide letter dated 17.5.2014, it has been intimated that as his mother's case had already been processed and rejected, hence his case cannot be reconsidered for appointment in relaxation to normal rules as

per existing rules. Hence, the applicant is not entitled to any relief.

4. In rejoinder, while reiterating the averments made in the OA, the applicant submitted that the time limit of three years prescribed for considering the cases of compassionate appointment has been reviewed by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training vide OM dated 26.7.2012 (Ann.A/12). Now the only onus of examining the penurious conditions of the dependent family will rest with the authority making compassionate appointment.

5. Heard the learned counsels of both the parties and perused the record.

6. I find that the case of the wife of the deceased has already been considered for compassionate appointment by the respondents. Due to there being more deserving candidates, the same could not fructify. This is clear from letter dated 9.10.2001 (Ann.A/1). The same facts have been reiterated vide letter dated 16.7.2012 (Ann.A/7), informing the status of the case, to the son of the deceased employee. In response to the application of Shri Mangla Ram, in February, 2014 for considering his case for compassionate appointment, the respondents have again informed him in May, 2014 – that his mother's request had been

processed and rejected in 2001 and that his request for reconsideration of employment cannot be processed (Ann.A/9).

7. In this case, the respondents cannot be faulted. The application of Smt. Raju Devi was processed expeditiously and the results intimated to her. Subsequently, her case was again reconsidered and rejected, and she was informed of the decision on 9.10.2001.

8. The applicant (the son of the deceased) has now chosen to apply for compassionate appointment after a lapse of almost 12 years – in place of his mother – without giving any justifiable reasons for the delay. The reliance on OM dated 26.7.2012, of the Ministry of Personnel, Public Grievances and Pensions by the applicant – is totally out of context, as well as misleading. The instructions clearly state :-

“2.....While considering such belated requests it was, however, to be kept in view that the concept of compassionate appointment, is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases was to be taken only at the level of the Secretary of the Department/Ministry concerned.”

Keeping these facts in mind – the time limit of 3 years prescribed for considering cases of compassionate appointment, has been withdrawn by this OM.

9. In the instant case, the father of the applicant expired on 16.1.2000. The family was given the necessary retiral benefits. The request of the wife of the deceased has already been considered and rejected. She accepted the rejection order, as early as 2001, and managed to willy-nilly deal with the financial constraints for a period of about 12-13 years. Her son (the applicant in this OA) now, cannot be allowed to rake up a settled situation and agitate the claim for compassionate appointment – with no explanation for this long delay in filing the OA.

10. In view of the same, the OA is dismissed on limitation as well as on merit. No costs.

11. In view of the order passed in the OA, no separate order is required to be passed in Misc. Application No.290/00294/2014 for condonation of delay.


(PRAVEEN MAHAJAN)
Administrative Member

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06/12/16.

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