

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 18/2011

Thursday, this the 20th day of October, 2011.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

K.Reghu,
Raj Nivas, Ariyallur.P.O.
Malappuram District.

....Applicant

(By Advocate Mr G Krishna Kumar)

v.

1. Union of India represented by its Secretary,
Ministry of Defence, Government of India,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters,
DHQ, New Delhi.
3. Head Quarters (EIR/PPG),
Chief Engineer, Southern Command,
Pune-411 001.
4. Head Quarters Chief /Engineer,
Chennai Zone, Island Grounds,
Chennai-9.
5. Garrison Engineer,
GE DSSC, Wellington,
Nilgiris-643 231, Tamil Nadu.

....Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC)

This application having been finally heard on 18.10.2011, the Tribunal on 20.10.2011 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

This is a case of compassionate appointment. The applicant's father
Shri P.K. Rajan, while working as MT Driver, Grade II, in the Office of the
Garrison Engineer Nilgiris expired on 25-09-1993 leaving his family

consisting of the spouse of the deceased, the applicant and his sister. The applicant had applied for compassionate appointment for three posts, which not being permissible, had been advised by the respondents to apply for only one post. Accordingly, he had applied for the post of LDC and due to non availability of vacancies, he could not be accommodated. Thereafter, the applicant requested for the post of Mazdoor and he was considered along with 54 other candidates and here again, the applicant could not be accommodated due to non availability of vacancies. Thus, twice considerations have been given by 2001 and final speaking order passed.

2. The applicant has filed this OA seeking the following prayer:

- i) To call for the records leading to Annexure A-20 order and to quash the same;
- ii) To direct the respondents appoint the applicant to the post of LDC or any suitable post in any of the available vacancies.
- iii) To declare that issuance of Annexure A-20 rejecting the application for compassionate appointment is against the scheme for compassionate appointment.

3. Respondents have contested the OA. Preliminary objection as to limitation has been made in para 3 of the counter. Their version as succinctly brought out in para 7 of the counter is reproduced below:-

"7. It is submitted that the applicant applied for three different posts (i.e. LDC, Storekeeper, Meter Reader). Since there is no provision to keep him in the waiting list of the three posts applied for as per the scheme, he was asked to apply for any one post. Accordingly, he had applied for the post of lower division clerk only in 1999. His name was included in the Board Proceedings for the year 1999 for the post of LDC made

by Chief Engineer Southern Command who is competent to conduct the board proceedings to this category (Annexure R-2). But, due to limited number of vacancies and low merits his name was not considered for appointment. His case for Storekeeper and Meter Reader was also not considered because of the policy constraints. Subsequently, the applicant had requested for change of post from LDC to Mazdoor, vide his application dated 26th October 2011. According to his willingness his case has been changed from LDC to Mazdoor and the competent authority, i.e. Chief Engineer Chennai Zone conducted the board proceedings for Mazdoor category. His name was included in the merit list prepared by Chief Engineer Chennai Zone in 2001. He was considered along with other 54 candidates and but could not offer appointment due non availability of vacancy (Annexure R-3). Accordingly, final speaking order issued vide CE CZ letter No.10246/Wton/1730/E1A dated 07 Jan 2002 as per various Govt letter and rulings given by the Court (Annexure R-4). As per the policy on compassionate grounds, the case will be considered for one year only and further reviewed for one more year if the case is genuine and deserving. Extremely deserving cases only will be considered in the 3rd year. From the above, it is clear the case of the applicant has been considered appropriately and given due consideration by the respondents. Since the case does not warrants further extension as per the scheme, the same was not considered by further Boards beyond 2001."

4. The manner in which the cases for compassionate appointment had been considered is also indicated by filing Annexures R-2 and R-3.
5. Applicant has filed his rejoinder, reiterating his contentions as in the OA.
6. Counsel for the applicant argued that the applicant has been sanguinely hoping to get an appointment under the doctrine of legitimate expectation.
7. Counsel for the respondents submitted that the final order having



been passed as early as in January, 2002, apart from the fact that there is no merit in the OA, the OA also suffers from the point of view of limitation.

8. Arguments were heard and documents perused. The counsel for the respondent is certainly not wrong when he contended that the application is barred by limitation. A 2002 order is being agitated in 2011. Though there is an application for condonation of delay of 2255 days, there is absolutely no satisfactory explanation for such delay. Further, on merits, it is observed that the applicant's case secured only 47 points, while there were many others with higher points. Annexure R-2 refers.

9. As regards legitimate expectation, the same cannot cure limitation. Further, the case of the applicant had been fully considered and no legal lacuna could be discerned from the impugned order.

10. The OA is therefore, **dismissed**. No costs.



Dr K.B.S.RAJAN
JUDICIAL MEMBER

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