
O.A.No.331 of 2004

November 5, 2004.

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN.

Ashish Kumar Verma, aged about 22 years, son of Late Sri Ram Gopal Verma, Resident of House No.123, Bahadur Nagar, P.S.Kotwali, Distt. Lakhimpur Kheri.

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Applicant

By : Mr.Narender Gupta, Advocate.

Versus

1. Union of India through Secretary Finance, New Delhi.
2. Chief Commissioner of Income Tax, Ashok Marg, Lucknow.
3. Dy. Commissioner (Headquarter) Income Tax, Ashok Marg, Lucknow.
4. Income Tax Officer, Ward No.1 Lakhimpur Kheri.

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Respondents

By : Mr.Raj Singh, Proxy Counsel for Respondents.

O R D E R (ORAL)KULDIP SINGH, VC

The applicant has filed this O.A. pleading that his father Ram Gopal Verma, while working as Pariveshak Grade II in the office of R.No.4, died on 18.5.1999, leaving the family in penury. The applicant made an application for appointment on compassionate grounds on 1.12.1999. Since he did not receive any reply, he filed another representation and ultimately on 5.3.2004, the respondent no.3 informed him vide letter 5.3.2001 (Annexure A-1), that no vacancy is available either in Group 'D' or in Group 'C' and similarly is the position in other cadres also. He was further informed that if any vacancy arises in future the application of the applicant for compassionate appointment shall be considered. Thereafter since no response was coming forward from the respondents, the applicant has filed the present O.A. inter-alia, for issuance of direction



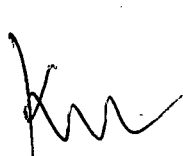
to the respondents to appoint the applicant on Class III post under the rules on compassionate appointment.

2. The O.A. is being contested by the respondents. They have filed a detailed reply.

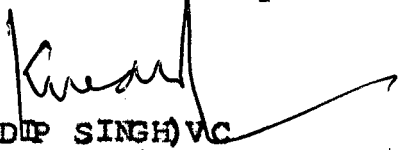
3. Learned counsel for the parties have been heard and record examined.

4. Learned counsel for the respondents has submitted that now as per the latest instructions if the vacancy is not available for a period of 3 years, then the case for appointment on compassionate grounds is to be closed and in this regard he has referred to the latest instructions copy of which is enclosed as Annexure SR-4, which is a clarification to the earlier Memo issued by the DQPT on the subject of compassionate appointment. It provides that the maximum time for which a case of an employee for considering him for employment on compassionate grounds ^{will} ~~may be~~ three years subject to the condition that the prescribed committee has reviewed and certified that the penurious condition of the family at the end of the 1st and 2nd year is not good. After three years if it is not possible to offer to the applicant the appointment on compassionate grounds, it will not be considered again. A perusal of the paragraph makes it clear that a particular committee has to consider the case of an ~~employee~~ applicant at the end of 1st and 2nd Year whether the family is in indigent condition. However, by the letter dated 5.3.2001 the applicant was simply informed that there is no vacancy with the department and as and when the vacancy becomes available, the case of the applicant will be considered in future. There is no reference as to whether the Committee has considered the penurious condition of the family or not. In view of this/^{Court} ~~we~~ find that the respondents cannot be allowed to sit-over the matter endlessly.

5. In view of the above discussion, this O.A. merits acceptance and it is allowed. The respondents are directed to



consider the representation of the applicant dated 14.6.2004
(Annexure A-11) and pass a reasonable and speaking order on the
same in accordance with the instructions issued by the DQPT,
within a period of three months from the date of receipt of
copy of this order. No costs.


(KULDIP SINGH) VC

November 5, 2004.

HC*