

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.245/2005
This the 14th day of May 2007

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Mukesh Shukla aged about 31 years, S/o Late Laxmi Narayan
R/o H.No.22, Nathu Singh Road, Kanpur Cantt., U.P.

...Applicant.

By Advocate: Shri I.M. Pandey.

Versus.

1. Union of India through the Secretary, Ministry of /Defence, Secretariat, Lucknow.
2. Chef Engineer, Lucknow Zone, Lucknow-02.
3. Garrison Engineer, Military Engineering Services, Kanpur Cantt., Kanpur.
4. Drug Engineer, M.E.S., Kanpur.

By Advocate: Shri S.P. Singh.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this Original application to issue a direction to the respondents to reconsider the case of the applicant for appointment on compassionate ground in accordance with the relevant rules and instructions taking note of the poor financial condition of the applicant with the following averments.

2. The father of the applicant Late Laxmi Narain, while working on the post of Mate under 2nd Respondent died on 06.02.1995 at Lucknow due to sudden cardio respiratory arrest by leaving the applicant and his wife. Immediately, the applicant submitted an application Dt. 24.04.1995 to the 3rd Respondent for appointment on compassionate ground, which was pending for several years. After his repeated representations and reminders, the 2nd Respondent rejected his representation for compassionate appointment on 15.06.2002 on the




ground of non-availability of vacancy under 5% quota. He also contended that the 3rd Respondent rejected his claim on imaginary material of Rs.800/- per month earning member of the family and also on the ground that the matter pertain for a period of more than 7 years and 3 months. Immediately after rejection order, he also made an other representation Dt. 5.08.2002 (Annexure-5) to reconsider his application for compassionate appointment and the same is pending with the respondents hence, field this O.A. to reconsider his pending representation for compassionate appointment.

3. The respondent have filed their Counter Affidavit stating that the case of the applicant has already been considered by the Board of Officers but not recommended for appointment on compassionate ground due to limited vacancy for appointment on compassionate ground by its order Dt. 15.06.2002 (Annexure-4). They further stated that mother of the applicant had received the terminal benefits and getting the family pension and it is observed by Board of the Officers that more deserving candidates whose position were critical than the applicant to maintain their family, has been selected against the 5% quota of compassionate appointment and thus they have justified the action fo the respondents under Annexure-4 stating that it is just, fair and as per the rules and law. Thus, they stated that the applicant is not entitled for any relief and thus prayed for its dismissal.

4. The applicant has filed Rejoinder Affidavit reiterating his pleas taken in his OA and also stating that his mother is suffering from Cancer , for which he spent all the retrial benefits for her treatment and because of unemployment, he is not in a position to maintain himself and her mother.

5. Heard both sides.

6. The point for consideration is whether the applicant is entitled for the relief as prayed for.



7. It is the case of the applicant to reconsider his claim for compassionate appointment on the ground that he has no financial support and whatever terminal benefits received by their family was spent for her treatment of cancer disease and as such his claim for compassionate appointment is most deserving and required one.
8. Admittedly, the 3rd Respondent rejected the claim of the applicant for compassionate appointment and also issued reasoned orders on 15.06.2002 (Annexure-4). But the applicant without challenging the said orders, simply filed this application for reconsideration of his claim, which is not at all justified.
9. The learned counsel for the applicant advanced arguments on the ground that the 3rd Respondent passed orders of rejection (Annexure-4) on some now available material and also on the ground that their family received terminal benefits of Rs. 1,03,560/- and getting family pension of Rs. 1575/- per month. When the said rejection order (Annexure-4) is not the subject matter and without questioning the validity of it, it is not open to the applicant, to raise such arguments and thus going into the merits of the rejection order (Annexure-4) is not at all within the purview of this O.A.
10. In view of the above circumstances, the claim of the applicant to reconsider his request for compassionate appointment is not at all maintainable as once it was already rejected by a reasoned order and thus there are no merits in the claim of the applicant.

In the result, O.A. is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)

14.05.2007

/amit/