

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. 77/06

Lucknow this the 10th day of January, 2007.

Hon. Mr. Justice Khem Karan, Vice Chairman.

Rohit Kumar aged about 22 years, son of late Shri Madan Kishore, resident of E-III/535, L.D.A. Colony, Sector H, Kanpur Road, Lucknow.

Applicant.

By Advocate Shri Balram Yadav.

Vs.

1. Union of India through its Secretary, Agriculture Department, Govt. of India, New Delhi.
2. Chairman, Indian Council of Agriculture Research, New Delhi.
3. Director, Indian Institute of Sugarcane Research, Dilkusha, Rai Bareilly Road, Lucknow.
4. Senior Administrative Officer, Indian Institute of Sugarcane Research, Dilkusha, Rae Bareilly Road, Lucknow.

Respondents.

By Advocate Shri S.K. Awasthi.

Order (oral)

By Hon. Mr. Justice Khem Karan, Vice Chairman.

1. Applicant has filed this O.A. challenging the communication dated 28.10.05 (Annexure-1) issued by Senior Administrative Officer, Indian Institute of Sugarcane Research, Dilkusha, Rae Bareilly Road, Lucknow.
2. There is no dispute that applicant's father was in employment of the respondents and he died on 27.11.2000 at the age of 40, while was still in service, leaving behind him the applicant and others as mentioned in para 4.2 of the O.A. The applicant being the eldest son moved application on 29.12.2000



to the Director for giving him compassionate appointment either in group C or in Group D under Scheme of compassionate appointment. It was stated that the family of the deceased was unable to sustain itself, due to poor financial condition. The applicant filed O.A. No. 364/03 which this Tribunal allowed vide order dated 9.9.05 (Annexure-9) with a direction to the respondents to consider the case of the applicant for compassionate appointment, as per provisions contained in DOPT O.M. dated 5.5.03, within a period of two months from the date of receipt of copy of the order. This order of the Tribunal became final. When the matter was not considered, in compliance of these directions, the applicant filed one contempt application and it appears that before the final orders could be passed in that contempt proceedings, the impugned communication dated 28.10.05 came into existence by which the applicant's mother was informed that the compassionate appointment cannot be considered any more, as the maximum time of three years had expired. Shri Balram Yadav informs that this Tribunal dropped the contempt proceedings after taking cognizance of this communication dated 28.10.05. Now, the applicant has filed this O.A. challenging this communication dated 28.10.05.

3. The respondents have tried to contest the claim of the applicant and have tried to defend the order/communication dated 28.10.05 by saying that under the relevant orders, including the Memo dated 5.3.03 issued by the Government in the Department of Personnel and Training, such a request for compassionate appointment can be considered only within a period of three years and if this period expires, further

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consideration is not possible. The Tribunal has not been impressed by such line of defence, as these were the directions of this Tribunal to consider the case of the applicant in accordance with Memo dated 5.5.03. The Tribunal is of the view that it was not open to the respondents to refuse to consider the case of the applicant in terms of Memo dated 5.5.03. What the Tribunal meant by those orders, was that the case of the applicant should be considered again for second and third time as provided in the Memo dated 5.5.03. It is not the case of the respondents that the case of the applicant was considered for the second or third time. Communication dated 28.10.05 (Annexure -1) deserves to be quashed being contrary to the directions dated 9.9.05 in O.A. No. 364 of 2005 and the respondents are to be directed to reconsider the case of the applicant for the second and third time as provided in the Govt. Memo dated 5.5.03.

4. The O.A. is accordingly disposed of and the communication dated 28.10.05 is quashed with the direction to respondent No.3 to reconsider the case of the applicant for compassionate appointment for second and third time as provided in Office Memo dated 5.5.03 and as directed by the Tribunal in O.A. No. 364/03, within a period of two months from the date a certified copy of this order is produced before him. No order as to costs.


Vice Chairman.

s.a.