

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 468/2006

This the 14th day of March, 2008

Hon'ble Sri Justice Khem Karan, Vice Chairman

Prabhat Singh aged about 28 years son of late Sri Vijay Bahadur Singh, permanent resident of Village Belari, Post Office- Ranipur, District Basti (Presently residing at Village Bataha Subauli Kursi Road, Post Office- Vikas Nagar, Lucknow.

Applicant

By Advocate: Sri R.C. Singh

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Customs and Central Excise, New Delhi.
2. The Chief Commissioner, Central Excise and Customs, Lucknow.
3. The Commissioner, Central Excise, Allahabad.
4. The Commissioner, Central Excise, Kanpur.
5. Dy. Commissioner (P&V) Central Excise, Kanpur.
6. Assistant Commissioner (Customs), Gorakhpur Region, Gorakhpur.

Respondents

By Advocate: Sri Manoj Singh

ORDER (ORAL)

By Hon'ble Sri Justice Khem Karan, Vice Chairman,


Applicant, Prabhat Singh, son of late Sri Vijay Bahadur Singh, who died on 2.3.1996, while still in service of the respondents. It is alleged that mother of the applicant moved application on 17.12.1996 to the Commissioner, Central Excise and Customs, Allahabad for giving compassionate appointment to the applicant under dying in harness rules. As the matter was lying with the respondents, so the applicant filed one O.A. No. 1459 of 2005



before this Tribunal at Allahabad bench, which was finally disposed of vide order dated 8.12.2005 (Annexure A-17), directing the respondents to consider the representation of the applicant and dispose of the same by speaking order. It is alleged in the O.A. that mother of the applicant gave fresh representation dated 14.8.2006 (Annexure A-18) to the authorities concerned mentioning therein that the applicant was a graduate. By impugned order dated 5.1.2006 (Annexure A-1), the respondents have rejected his claim for compassionate appointment on the ground, inter-alia, that while minimum educational qualification for appointment on the post of Tax Assistant was graduate, whereas the applicant was only an intermediate, and there were also no vacancies for giving appointment to the applicant. It has been said in para 11 of this order that his case shall be considered when vacancies become available in the said grade and he will be informed accordingly.

2. The applicant is challenging this rejection on a number of grounds. One of such grounds is that, his ^{request} candidature for compassionate appointment as Tax Assistant should not have been turned down on the ground that he did not fulfil minimum educational qualification. It is said that he became graduate in 2000 and this fact was mentioned in the subsequent representation given by the mother of the applicant in August, 2006. It is also said that the claim of the applicant for such appointment could not have been rejected on the ground of non-availability of vacancy or on the ground that such appointment could be made only against 5% of vacancies of direct recruitment.

3. Respondents have filed reply, contesting the claim of the applicant. Their defence is on the lines, disclosed in the impugned order.

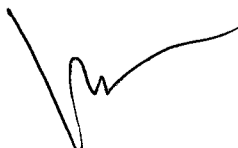


4. I have heard Sri R.C. Singh appearing for the applicant and Sri Manoj Singh for the respondents.

5. It appears that in 1996, when applicant's mother moved authorities concerned for compassionate appointment, applicant was only intermediate passed and the factum of his having graduated, could not be formally given to the respondents, by the time, the impugned orders were passed. There appears no dispute that applicant obtained a graduation degree as back as in the year 2000 but this fact could not be taken into consideration by the authority concerned. Although, Sri R.C. Singh has tried to say that G.O. Of 1998 providing that such appointment could be made only against 5% of the vacancies in direct recruitment, could not be applied to the case of the applicant as his father died in 1996 and request for compassionate appointment came in the same year but I think there is no need for going into all this. One of the reasons is that cadre of LDC/UDC was merged and a new cadre of Tax Assistant has been created and for appointment on the post of Tax Assistant, graduation is a must. In 1996, the applicant was not graduate and so no purpose would be served by entering into that controversy.

6. As the respondents themselves say that they will consider the case of the applicant on availability of vacancy in the cadre of Tax Assistant, so it seems just and proper to direct them to reconsider the case of the applicant for compassionate appointment in the cadre of Tax Assistant on availability of vacancy in direct quota.

7. So, this O.A. is finally disposed of with a direction to the respondent No.2 to reconsider the case of the applicant for



compassionate appointment in the grade of Tax Assistant on availability of vacancy in the quota of direct recruitment and in such reconsideration, the said impugned order will not come in the way. No order as to costs.

C. Karan
14/3/08
(Khem Karan)

Vice Chairman

HLS/-