

**Central Administrative Tribunal, Lucknow Bench,
Lucknow**

ORIGINAL APPLICATION No.424/2007

This the 17th day of December, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Jagat Narain Singh aged about 31 years son of Late Ram Singh resident of H. No.E-IV/15, Sector-G, Police Station Aliganj, Lucknow.

.....Applicant

By Advocate: Sri A.K. Agnihotri.

Versus.

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. The Engineer in Chief Garrison Engineer EM 36, Lal Bahadur Marg, Lucknow.
3. The Chief Engineer Head Quarter, Central Command Lucknow Zone, Lucknow.

.....Respondents

By Advocate: Sri K.K. Shukla.

ORDER

By Ms. Sadhna Srivastava, Member-J

The applicant is seeking quashing of order dt.8.9.2007 as contained in Annexure-A-1, whereby his request for appointment on compassionate grounds has been rejected.

2. The facts are that the applicant's father namely Late Ram Singh, died during his service tenure on 08.03.2003, leaving behind 2 major sons including the applicant and 2 daughters (one unmarried and one married). The applicant's



mother had already died in or about the year 1998. The applicant made an application dt.27.5.2003 for appointment on compassionate ground on the post of Mazdoor. The competent authority by means of interim speaking order dt.24.2.2007 as contained in Annexure-A-19 informed the applicant that his application was considered with 30 other candidates. The Board of Officers did not recommend his appointment, reason being that he ranked at Serial No. 23. The applicant was also given information that there was no vacancy for Mazdoor. Therefore, it was suggested to him that he may, if he so likes apply for the post of Chowkidar because, there were 2 vacancies for the post of Chowkidar. The applicant was also informed through the said letter that the Board has agreed to consider his case for 4th time. The applicant accordingly consented for appointment on the post of Chowkidar. However, the Board of Officers finally rejected the request of the applicant vide letter dt.8.09.2007. Therefore, this OA, for quashing of rejection order dt.8.9.2007.

3. The respondents have filed reply stating therein that consideration of the request of appointment was done in a fair manner keeping in view the law on the subject as laid down by the Apex Court and High Court.

4. The learned counsel for the parties have been heard.

5. The question is what power can be exercised by this Tribunal while exercising the power of judicial review in such matters. The Tribunal, in my opinion, has to scrutinize the



administrative decision to find out, if it was a arbitrary or actuated by malice or was passed against the Principle of natural justice. On a perusal of record, it appears that there were 30 candidates. Each candidate was awarded marks for relevant factors to be taken into account. The ranking was done on the basis of marks obtained by each candidate. The letter of respondents dt.24.2.2007 as contained in Annexure-A-19 shows that the applicant has obtained 37 marks and his rank was 23 in order of merit. Thus he was quite down below. Still the respondents considered him for 4th time for the post of Chowkidar but unfortunately the applicant could not find place in the successful candidates. In the circumstances there is absolutely no ground to hold that the decision was arbitrary or hit by malice. In fact, the applicant has also not made any such allegation. The applicant has only come forward with a bald assertion that the decision of the respondents in rejecting his claim was not fair. No specific grounds have been urged to enable the Tribunal to examine that the impugned order was unreasonable and passed in contravention of Principle of natural justice. Therefore, interference of the Tribunal is not called for. The applicant disputed the plea of the respondents that the family pension was paid after the death of Ram Singh on 08.03.2003. Therefore, the Tribunal summoned the records regarding payment of family pension. On perusal of records, it was found that family pension was released in favour of Km. Soni daughter of deceased employee. Km. Soni was paid family



pension till she attained the age of 25 years. Therefore, the respondents have taken steps for payment of family pension in favour of Sri Deepak Kumar son of deceased employee. It is well known rule that children of the deceased are paid family pension up to the particular age. The applicant may have been over-age to receive family pension and for that reason, it was released in favour of daughter of the deceased employee. In any case the deceased employee has not left any minor child or school going children. Both the sons at the time of death were major. In any case the plea of the applicant that the family pension was not paid is incorrect. The records clearly bear out that the family pension was paid w.e.f. 09.03.2003. In the above circumstances, I do not find any ground to interfere in the matter.

6. Resultantly, the OA is dismissed without any order as to costs.


(Sadhna Srivastava)
Member-J

Amit/-