

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 374/2010

This, the 13th day of January, 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Manju Singh aged about 38 years wife of late Sri Santosh Kumar Singh r/o care of Salik Ram Singh 992/4, Asha Ram Bapu Ashram Road, Manas Nagar, Krishna Nagar, Lucknow-23

Applicant

By Advocate: Sri Prashant Singh Atal

Versus

1. Union of India through Secretary, Department of Defence/Finance, New Delhi.
2. Controller General of Defence Accounts, Ulan Batar Road, Palam, Delhi Cantt-110010.
3. Principal Controller of Defence Account (Central Command), Cariappa Road, Lucknow.
- 4.

Respondents.

By Advocate: Sri S.P.Singh

ORDER (Dictated in Open Court)

By Hon'ble Mr. Justice Alok Kumar Singh , Member (J)

This O.A. has been filed seeking a direction for providing compassionate appointment under dying in harness rules. Further, quashing has been sought of order dated 31.3.2010, by means of which, the claim of the applicant has been finally rejected and closed..

2. The case of the applicant is that her husband died on 7.6.2003 during period of service in a road accident. He left behind him his widow (applicant), two minor daughters and one son. The applicant moved an application for compassionate appointment on 24.1.2005. But by means of order dated 12.5.2005, it was informed that presently, no vacancy is available. She again represented on 2.9.2005. But on 8.9.2005, it was informed that there is no vacancy in the Department. She kept on waiting for the vacancy. On 8.2.2010, she again represented. In response thereof, the opposite parties sent a

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letter dated 31.3.2010 (Annexure 1) showing inability to appoint the applicant because the matter has been finally closed. Lastly on 20.4.2010 (Annexure 8), applicant again represented her grievance. But no decision was taken. Hence this O.A.

3. The claim has been contested on the ground that due to non-availability of vacancy, the applicant could not be given compassionate appointment. Further, it has been said that after a lapse of 3 years, her case was closed in view of O.M. dated 5.5.2003.

4. In the Rejoinder Reply, besides, reiterating the original claims, it has been said that in similar circumstances, this Tribunal has passed several orders in favour of the applicants. One of such judgment dated 3.6.2011 passed in O.A. No. 325/2010 (Annexure RA-1) has been relied upon.

5. Heard the arguments and carefully perused the entire material on record.

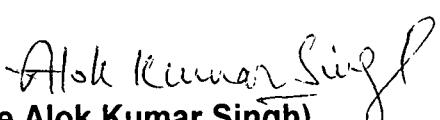
6. The only point of controversy before this Tribunal is as to whether or not the respondents were justified in closing the case of the applicant on account of the fact that more than 3 years have passed and her case has already been considered thrice. The above said O.M. dated 5.5.2003 issued by DOP&T provides that claim of a person can be kept for consideration upto 3 years. But this O.M. has already been declared as irrational and violative of Article 14 and 16 of the Constitution of India in the case of *Hari Ram Vs. Food Corporation of India and others reported in (2009) 3 UPLBEC, 2212* by none other than our own Hon'ble High Court of Judicature at Allahabad. Therefore, the pleadings on behalf of the respondents based on the aforesaid O.M. have become meaningless.

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7. This finding has already been given by this Tribunal in the aforesaid case of ***Smt. Hardevi Vs. Union of India and others (O.A. No.325/2010)***, upon which reliance has been placed on behalf of the applicant. There is no reason for not adhering to this stand which has already been taken by this Tribunal in the aforesaid O.A.

8. Finally therefore, in view of the above, this point is decided in favour of the applicant. Consequently, this O.A. deserves to be and is accordingly partly allowed. The impugned order dated 31.3.2010 is hereby set aside. The respondents are directed to reconsider the case of the applicant for appointment on compassionate ground in accordance with law.

No order as to costs.


(Justice Alok Kumar Singh)
Member (J) 13.1.2012

HLS/-