

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 437/2010

This the 24th day of September, 2013

Hon'ble Sri Navneet Kumar, Member (A)

Jaibun Nisha aged about 39 years wife of late Mohd. Farooq N.K./Tailor,
resident of village- Musepur, Post-Bharat Kund, District- Faizabad.

Applicant

By Advocate: Sri A.K. Pandey

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Directorate General of Organization/ Organization 4 (MP) Civil Adjutant, DHQ, P.O. New Delhi.
3. Provost Marshal Adjutant General's Branch, Army Headquarter, New Delhi.

Respondents

By Advocate: Sri R. Mishra

(Reserved on 20.9.2013)

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application has been filed by the applicant u/s 19 of the AT Act for the following reliefs:-

- i) issue order/ direction to quash the impugned order of rejection dated 6th May, 2002 passed by the Appellate authority D.C. and W as contained in Annexure No. 1 to this O.A.
- ii) Direct the respondents to consider the claim of the applicant for compassionate appointment of fresh in accordance with relevant rules and law ignoring the Head Quarter circular contained in the letter No. 15301/MP-4(Civ)(A) dated 29.8.2000 and to give her employment on a suitable post within a reasonable short period to be prescribed by this Hon'ble Tribunal.
- iii) To pass any other order or direction which this Hon'ble Tribunal may deem just and proper under the circumstances of the case.
- iv) To allow this O.A. with costs.

2. The brief facts of the case are that the applicant is wife of ex-employee who died on 10.5.1994. Subsequently, the applicant made an application for grant of compassionate appointment which was considered

and rejected by the respondents on 6.5.2002. Feeling aggrieved by the said order, the applicant preferred the present O.A.

3. The learned counsel appearing on behalf of the respondents filed their counter reply and through reply, it was pointed out by the respondents that ex-employee was enrolled in the Army on 31st December, 1974 and died on 10.5.1994. Subsequently, the applicant was granted Special family pension @ Rs. 580/- p.m. w.e.f. 11th May, 1994 and is presently drawing her pension from Bank of Baroda. The learned counsel for the respondents has also pointed out that the present O.A. is not maintainable since the ex-employee is a member of Army, as such the applicant is widow of the military person, cannot approach this Tribunal under Section 2 of the AT Act, as such the O.A. is liable to be dismissed.

4. The learned counsel for the applicant has filed the Rejoinder Reply and through Rejoinder Reply, mostly reiterated the averments made in the O.A. But the learned counsel for the applicant failed to give the specific reply in regard to the objection raised by the respondents that as per Section 2 of the AT Act, the matter pertaining to Armed forces can be entertained by the Tribunal.

5. Heard the learned counsel for the parties and perused the record.

6. Undisputedly, the applicant is widow of the deceased employee and the ex-employee died on 10.5.1994. After the death of the employee, the applicant was granted Special Family Pension @ Rs. 580 p.m. w.e.f. 11th May 1994 and at present, the applicant is drawing her pension from Bank of Baroda, Faizabad. After the death of the ex-employee, the applicant submitted an application on 16th September, 1996 for grant of compassionate appointment. The said application was forwarded to the competent authority and, the name of the applicant was registered in the Ex-Servicemen Cell for providing employment assistance. Subsequently, applicant submitted an application dated 22nd August, 1998 and the case of the applicant was considered by the competent authority number of times but the applicant could not be offered appointment and finally in August, 2000, the respondents organization received the intimation from the Army Headquarter to delete name of those individuals who could not be offered appointment within one year from the waiting list due to non-availability of vacancy. Since the

applicant was wait listed from 1997, accordingly, her name was also deleted. Subsequently, the applicant filed O.A. No. 673/2001 which was disposed of by the Tribunal vide order dated 18th January, 2002, wherein the Tribunal directed the respondents to consider the O.A. as representation of the applicant and pass a reasoned and speaking order. In pursuance of the said direction, the respondents passed the impugned order on 6th May, 2002, which is impugned in the present O.A. The bare reading of Section 2 of the AT Act is absolutely clear to the extent that act does not to apply to certain persons such as any member of the naval, military or air force or of any other armed forces of the Union. For ready reference, Section 2 of the Act is reproduced below:-

"2. Act not to apply to certain persons- The provisions of this Act shall not apply to-

(a) any member of the naval, military or air force or of any other armed forces of the Union"

7. It is also clear from the reply filed by the respondents that the applicant's husband was an ex-army man and this fact is not disputed by the applicant either in his Rejoinder Reply or during the course of arguments. Since this Tribunal has no jurisdiction to entertain a case pertaining to an ex-army man, as such, the present O.A. is liable to be dismissed for want of jurisdiction. Accordingly, the O.A. is dismissed. No order as to costs.


(NAVNEET KUMAR)
MEMBER (J)

HLS/-