

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No. 27/2011

This, the ^{24th} day of September, 2013

Hon'ble Sri Navneet Kumar, Member (J)

Vinod Kumar Meena, aged about 29 years son of late Nawal Singh Meena, r/o Village Daulakuwan, Post Gangchauli, Tehsil & District-Hathras.

Applicant.

By Advocate: Sri Anurag Srivastava

Versus

1. Union of India through its Secretary, Department of Finance Revenue, Central Board of Excise and Customs, New Delhi.
2. Chief Commissioner of Central Excise, Customs and Service Tax, 7 A, Ashok Marg, Lucknow
3. Commissioner Central Excise, 7A Ashok Marg, Lucknow.
4. Additional Commissioner (Cadre Control), Central Excise, 7 A Ashok Marg, Lucknow
5. Dy. Commissioner, Central Excise Department Mandal, Aligarh.
6. Assistant Commissioner, Central Excise Division, Aligarh.
7. Commissioner Central Excise, Kanpur Commissionerate, Kanpur

Respondents.

By Advocate: Sri R. Mishra

ORDER (ORAL)

By Hon'ble Sri Navneet Kumar, Member (J)

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

- i) To issue an appropriate order or direction thereby setting aside the impugned order dated 30.7.2010 passed by the opposite party No. 4 as contained in Annexure II to the original application;
- ii) To issue an appropriate order or direction thereby directing the opposite parties to appoint the applicant on the suitable post on compassionate ground in the office of Chief Commissioner of Central Excise/ Customs forthwith.
- iii) To issue a suitable order or direction which this Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case
- iv) To award the cost of this original application.



2. The brief facts of the case are that the applicant who is son of the ex-employee applied for grant of compassionate appointment after serious illness of his father due to an accident. After the said accident, the employee died on 27.10.1993. and at that point of time, the applicant was minor, hence the mother of the applicant submitted an application before the appropriate authority that her eldest son i.e. the applicant may kindly be considered for grant of compassionate appointment. Subsequently, the applicant applied for grant of compassionate appointment which was forwarded by the authority and finally it was rejected by means of impugned order dated 30th July, 2010. Feeling aggrieved by the said order, the applicant preferred the present O.A.

3. Learned counsel appearing on behalf of the respondents filed their reply and through reply, it was pointed out by the respondents that due to non-availability of the vacancies and also due to financial condition of the family of the deceased employee, the case of the applicant was not found fit for grant of compassionate appointment. Apart from this, it is also pointed out by the learned counsel for the respondents that whole concept of granting compassionate appointment is to enable the family members to tide over the sudden crises and relieve the family of the deceased employee from the financial destitution. Apart from this, the learned counsel for the respondents has also pointed out that the claim for grant of compassionate appointment cannot be considered and taken as a matter of right.

4. The learned counsel appearing for the applicant has filed Rejoinder Reply and through Rejoinder reply, mostly the averments made in the Original Application are reiterated. It is also pointed out that the condition of the family of the deceased employee is very pathetic and they are living in a mud house in village and the family members of the deceased employee consists of 4 major and 1 minor persons who are dependents upon the family pension of ex-employee which is only Rs. 4270/- per month. Apart from this, it is also pointed out by the learned counsel for the applicant that the respondents failed to consider the material fact and financial condition of the family and rejected the claim of the applicant after a belated stage.

6. Heard the learned counsel for the parties and perused the material on record.

7. Admittedly, the applicant is the son of the deceased employee who died after an accident in 1993 and soon thereafter the death of the deceased employee, the mother of the applicant applied for grant of compassionate appointment which was not considered for a long period of 10 years and finally it was rejected vide order dated 30th July, 2010. The bare reading of order dated 30th July, 2010 clear that the case of the applicant was considered only in a meeting held on 9.5.2008 and in November, 2009, the Screening Committee was formed to review 83 applications pending for compassionate appointment in Group 'C' the committee considered the cases of candidates against 9 vacancies available for year 2008-09 and 2009-10 and finally, 9 candidates were offered appointment on compassionate ground in the Department against the available vacancy on the basis of their penurious conditions and educational qualification. The respondents admitted in their order dated 30th July 2010 that the case of the applicant was relatively on a weaker footing as far as penurious condition is concerned due to lack of adequate vacancies, the case of the applicant was not considered as there were more deserving cases.

8. Respondents through their order dated 30th July, 2010 failed to indicate the point given to those 9 selected candidates and the points given to the applicant. As per the DOP&T Circular, the relative comparison has to be made and only on the basis of relative comparison, the case for considering compassionate appointment should have been made. In the instant case, it is clear from the reading of the impugned order that no such action has been taken by the respondents nor any enquiry is conducted before passing the impugned order, as such the impugned order appears to be illegal and is liable to be quashed. Accordingly, the impugned order dated 30th July, 2010 is quashed. The respondents are directed to reconsider the case of the applicant considering the penurious condition of the applicant and in case the applicant is found fit for grant of compassionate appointment, he shall be given appointment. The entire exercise be done within a period of 3

months from the date of certified copy of this order. With the above observation O.A. is disposed of. No order as to costs.

U.R. Kapoor

(Navneet Kumar)
Member (J)

HLS/-