

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW**

Original Application No. 328/2011

This, the 2nd day of March, 2012.

HON'BLE SHRI NAVNEET KUMAR, MEMBER (J)

Rajan Kumar Jatava, aged about 29 years, son of Late Narain Das Jatav, resident of House No. 713, Azad Mohal, Sadar Bazar, Cantt., Lucknow.

Applicant

By Advocate Sri D. Awasthi.

VERSUS

1. Union of India, through Engineer-in-Chief, E-in-Cs Branch (EIC(4) Integrated Headquarter of Ministry of Defence (Army), Kashmir House, DHQ-PO New Delhi-11.
2. Chief Engineer, EIC (2), H.Q Central Command, Lucknow.
3. CWE, Lucknow, GE (E/M), Lucknow.
4. Garrison Engineer, E/M, Lucknow.

Respondents

By Advocate Sri Rajendra Singh.

ORDER (ORAL)

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

The present Original Application has been preferred by the applicant under Section 19 of the Administrative Tribunal Act, 1985 for quashing of the impugned order dated 29.3.2008 passed by respondent No. 2 rejecting the claim of the applicant arbitrary and without considering available material on record.

2. The brief facts of the case are that the applicant's father was working under the Garrison Engineer and expired on 30.6. 2001. The applicant thereafter moved an application for compassionate appointment which was kept pending and finally it was rejected by means of an order dated 29.3.2008 stating therein that the Board of Officers taken the decision considering the family size including ages of children, amount of terminal benefits, amount of family pension, liability in terms of unmarried daughters, minor children etc, movable/immovable properties left by the deceased at

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the time of his death. The respondents in their impugned order dated 29.3.2008 also pointed out that the deceased Government Servant's family received Rs. 293160/- as terminal benefits as well as the family is getting the monthly pension of Rs. 2450/- + DA etc. The Committee has also pointed out in the impugned order that the family owns property worth Rs. 90,500/- and accordingly, they did not consider it appropriate to give appointment to the applicant on compassionate ground.

3. The learned counsel appearing on behalf of the respondents submits that since no instructions has been received so far, therefore, it was not possible for him to file CA, but he submitted that since the deceased Government Servant 's family has received a huge amount of Rs. 293160/- and the committee members of the competent authorities considered the case of the applicant and when it was not found fit, it was rejected by the authorities concerned. The respondents also pointed out that the applicant did not claim compassionate appointment as a matter of right. As such the applicant is not entitled for compassionate ground.

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

5. It is an admitted fact that the applicant's father was in service and he died on 30.6.2001 while he was in service. The applicant made a representation on 15.8.2001 and his representation kept on pending and finally it was decided by means of any order dated 29.3.2008 where the case of the applicant was rejected on the ground that the family of the deceased employee received an amount of Rs. 293160/- as terminal benefits and also getting family pension of Rs. 2450/. Apart from this, the family also owns property worth Rs. 90,500/-.

6. The Hon'ble Apex Court in the case of **Govind Prakash Verma Vs. Life Insurance Corporation of India and Others (2005) 10 SCC 289**, it is observed that "scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of deceased employee as benefit of service which they get on the death of employee. Therefore, compassionate appointment cannot be refused on the ground that any member of family had received such benefit." In another judgment of the Hon'ble High Court reported in (2009) 3 UPLBEC-2212, in the case of

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Hari Ram Vs. Food Corporation of India, it was observed that "scheme of compassionate appointment has to be made on human and sympathetic consideration." The Hon'ble Apex Court in the case of **Mukesh Kumar Vs. Union of India and Others** reported in (2007) 8 SCC 398 has been pleased to observed that "the applicant's request for compassionate appointment rejected on the ground that the family was not in indigent condition and there is no indication is available how the departmental authorities arrived at this conclusion." In the aforesaid case, the Apex Court also observed that "there is no indication as to on the basis of which materials the conclusion was arrived at. It is not clear as to what were the material before the Circle Level Selection committee to conclude that the family was not in financially indigent condition." The applicant is also relied upon the two decisions of this Tribunal passed in O.A. Nos. 121/2003-Vinod Kumar Nigam Vs. Union of India and Others and O.A. No. 187/2008 Sri Shashi Kant Ojha vs. Union of India and Others.

7. The similar issue was heard by this Tribunal and the O.As were allowed. The law has been settled on this point. The receipt of family pension and terminal benefits cannot be sole ground for denying the compassionate appointment. If that is accepted as plausible reason for refusing such appointments, no dependent of central government can get it because monthly pension is invariably more than 1767.20 which is the poverty line, which has been taken as a benchmark for assessing the financial condition of the family.

8. In view of the aforesaid discussions, I come to the conclusion that impugned order dated 29.3.2008 rejecting the claim of the applicant on the ground of indigency criteria was without any basis. Besides everything, having regard to the settled principles of legitimate expectation also the respondents are required to consider and provide the compassionate appointment to the applicant in pursuance of his offer of compassionate appointment.

9. In view of the above, the O.A. is allowed. The impugned order dated 29.3.2008 is hereby quashed. The respondents are directed to consider for providing compassionate appointment to the applicant in pursuance of his 

application for compassionate appointment. The same may be done within a period of 3 months from the date a certified copy of this order is produced before them. No order as to costs.

U.R. Kapoor

(Navneet Kumar)
Member (J)

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