

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No: 312/2012

This, the 16th day of August, 2012

HON'BLE Sri Justice Alok Kumar Singh , MEMBER (J)

Smt. Bitana aged about 43 years son of late Sri Babu Lal resident of Dwarikapuri behind Ram Bharosey School, Telibagh, Lucknow.

Applicant.

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Garrison Engineer, Electrical and Mechanical , MES, Lucknow.
3. The Chief Engineer, Head Quarter, Central Command, Lucknow.

Respondents.

By Advocate: Sri S.K. Awasthi

ORDER (ORAL)

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

Heard.

2. Keeping in view the facts and circumstances of this case, this O.A. is being disposed of without inviting any counter affidavit as this Tribunal is of the view that no prejudice would be caused to the respondents on account of non calling of C.A.

3. This matter pertains to compassionate appointment on account of unfortunate death of an employee in the year 2002.

The matter took about 5 years in disposal. Ultimately in the year 2007, it was informed by the respondents that the matter has been disposed of vide detailed order dated 29th September, 2007.

It is specifically averred in the O.A. that the alleged order dated 29th September, 2007 was never served upon him. Whether that order was served or not is not the actual question. The contention is that as mentioned in the letter dated 30.10.2006 (Annexure A-7), the matter of the applicant was considered

keeping in view the O.M. dated 5.5.2003 issued by the DOP&T, by means of which a cap of three years was imposed for considering such cases. This O.M. was struck down by the judgment dated 7.5.2010 in Civil Misc. Writ Petition No. 13102 of 2010 of the Hon'ble High Court of Judicature at Allahabad. The aforesaid judgment was followed by this Tribunal in several cases including the case of A.N. Shukla Vs. Union of India and others (O.A. No.97/2010) decided on 18.4.2011 and Rajeev Rastogi Vs. Union of India and others (O.A.No. 2/2012) decided on 29th February,2012, a copy whereof has been enclosed along with representation dated 6.3.2012, which is said to be still pending with the respondents.

4. Concededly, the aforesaid O.M. dated 5.5.2003 has now been withdrawn vide O.M. dated 26.7.2012 issued by the DOP&T in view of the aforesaid judgment of the Hon'ble High Court, Allahabad. A copy of this O.M., submitted by the counsel for applicant, has been perused.

5. An inevitable corollary of this recent O.M. dated 26.7.2012 would probably be that all such matters of compassionate appointment which have been closed or disposed of by adhering to the guidelines contained in the above O.M. dated 5.5.2003 may have to be reconsidered, if the aggrieved party raises this point before the competent authority. Therefore, the oral preliminary objection raised from the side of the respondents regarding delay in filing this O.A. carries no substance.

6. In view of the above, without entering into the merit of the case, this O.A. is finally disposed of with direction to the respondents to dispose of pending representations dated 6.3.2012 (Annexure-9) and 25.6.2012 (Annexure-10) expeditiously, say within a period of 3 months from the date, a copy of this order is submitted with them along with a fresh

copies of representations dated 6.3.2012 and 25.6.2012. No order
as to costs.

Alok Kumar Singh
16.8.12

(Justice Alok Kumar Singh)
MEMBER (J)

HLS/-