

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 460/2003.

this, the 17th day of October 2003.

HON. SMT. MEERA CHHIBBER MEMBER(A)

Ram Kumar Yadav aged about 34 years son of Late Shri Ram Lakhan, R/o Behind Ram Bharosey School Post Office Kharika Telebagh, Lucknow.

....Applicant.

BY ADVOCATE SHRI RAKESH YADAV.

VERSUS

1. The Union of India through the Secretary of Defence, New Delhi.
2. The Chairman, Government of India, Ministry of Defence, Canteen Stores Depot, "Adelphi" 119, N.K. Road, Mumbai.
3. The General Manager, Govt. of India Ministry of Defence, Canteen Stores Depot, * Adelphi" 119, N.K. Road, Mumbai.
4. Regional Manager (Central) C.S.D. Depot, Lucknow.
5. The Manager, C.S.D. Depot, Lucknow.

....Respondents.

BY ADVOCATE SHRI S.LAVANIA.

ORDER (ORAL)

BY SMT. MEERA CHHIBBER MEMBER(J)

BY this Original Application, the applicant has sought quashing of the order dated 23.4.2003, and a direction to the



respondents to give appointment to the applicant on a Class IV post on compassionate grounds alongwith all consequential benefits.

2. By the impugned order, applicant's case has been rejected for grant of compassionate appointment by the respondents by passing a detailed and reasoned order taking into consideration the financial condition of the family, size of the family, ages of children, essential needs, family pension, as per norms laid down by the Govt. orders. They have clarified that the marks obtained by applicant come to 56, whereas, the persons who have recommended by the Board for compassionate appointment are the persons with 75% marks and above. ^{Applicant was informed} Thus, ~~submitted~~ that applicant cannot be considered for grant of compassionate appointment.

3. Applicant has submitted that his father, Late Shri Ram Lakhan died on 7th June 1997, while he was serving as "MAZDOOR" leaving behind his widow, three sons and two daughters. It is submitted by the applicant that pension, which is given to the widow is ^{if that is difficult is} so meagre ^{which is} to pull on the family, ^{where is} consists of 4 members. It is further submitted that the elder son of Shri Ram Lakhan, is mentally sick. The youngest son Shri Rajesh Kumar Yadav is minor. Even though the daughters are married, but since both the brothers are not yet earning, it was a fit case ^{where is} for applicant should have been granted ~~to~~ compassionate appointment.

4. It was keeping in view, these circumstances, that applicant's mother submitted an application on 28th June 1997 to the General Manager, Canteen Stores Department, for giving compassionate appointment to the applicant (Annexure No. 4), The application was rejected by a non speaking order dated 9.7.1998 (Annexure-5).

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Therefore, being aggrieved he filed the Original Application before this Tribunal whereby, this Tribunal ^{was B} please to direct the respondents to reconsider the case of applicant by judgment dated 25.10.1992.

5. The grievance of the applicant in this case is that the respondents have once again rejected the case of the applicant on the same grounds which is not permissible in law. He has further submitted that simply on the ground that the mother was getting family pension the request for compassionate appointment cannot be rejected. He also insisted that since the elder brother is mentally sick, it could not have been said by the respondents that ^{he} ~~was orally terminated~~ ^{already appointed B}. In these circumstances, applicant ^{has} ~~claim~~ ^{ed} the reliefs as mentioned above, in support of his ^{he has B on} ~~claim~~ ^{relief} the judgment of Sharda Devi Versus District Magistrate/Collector, Ghazipur reported in 2003 Vol.2 UPLBEC page 11135.

6. I have heard the counsel for the parties and perused the pleadings as well.

7. Perusal of the judgment dated 25th October 2002 passed in O.A. NO: 83/99 shows that even in the first O.A., court had not accepted the contention of applicant that his elder brother was mentally sick, ~~As~~ in applicant's own application given to the authorities, seeking compassionate appointment, it was mentioned that the elder brother is living separately. I have seen earlier file of O.A. No. 83/99 wherein respondents have annexed the ^{application B} ~~doc.~~ given by the applicant himself in which, applicant had ~~been~~ ^{himself} shown Shri Shiv Kumar Yadav ^{his} elder brother ~~was~~ living separately, which found mentioned in the judgment also. Therefore, now the applicant ~~cannot~~ be allowed to turn around and take the similar stand which was ~~not~~ accepted by the court earlier also. Even otherwise, in the ~~present~~ present O.A., applicant has not annexed any document to show that his elder brother ~~is~~ either mentally sick or is incapacitated, even though, in the earlier O.A. he did ~~not~~ ^{annexed} one prescription

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but that was not accepted by the court. Applicant cannot be allowed to re-agitate the same issue over and over again. Coming to the next contention of applicant that respondents could not have rejected his claim on the same grounds. I have seen both the orders passed by the respondents earlier dated 9th July 99 as well as the latest order which is impugned in the present order dated 23rd April 2003. It is seen that by order dated 9th July 99, the applicant was informed that his request is not acceded to without giving any reasons at all, whereas, by the impugned order, respondents have discussed each and every aspect of the matter which is required to be looked into ^{as per the R2} ~~and depending on the~~ norms set out by the department. They have allotted marks under different headings to each of the candidates taking into consideration the condition of the family, size of the family, ages of children, essential needs and the terminal benefits if received by the family members and then those candidates who were imposters were recommended by the Board of Officers. Since applicant had secured ^{much less} less marks than those who were ^{he R2} recommended, naturally ^{he R2} could not be recommended for compassionate appointment.

7. It is settled law that compassionate appointment cannot be ^{R2 or as a line of succession, R2} ~~sought~~ as a matter of right, nor the court can give a direction to ^{the department} give compassionate appointment to an individual. As these are the matters which are required to be considered by the department in comparison with those, who ^{all R2} ^{may R2} have also applied for compassionate appointment, ~~and~~ compassionate appointment is to be given only to the most deserving cases on the basis of marks received by different candidates, ^{therefore} ~~namely~~ a person who gets lesser marks cannot be allowed to march over those candidates, who have received higher marks. Since, respondents have already reconsidered the case of applicant ^{by adopting} ~~scientific method~~ ^{method R2} and have found that his case was not considered ^{R2}

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for compassionate appointment, I do not find any illegality in the orders passed by the respondents. Therefore, the O.A. is dismissed without any order as to costs.



MEMBER(J)

LUCKNOW: DATED: 17.10.2003.

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