

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. No. 207/2006

Lucknow this the 23rd day of Feb., 2007.

Hon. Mr. Justice Khem Karan, Vice Chairman.

Mohd. Asif Warsi, aged about 34 years, son of late Shri A.M. Warsi resident of house No. 355/333 Ka, Alamnagar, Lucknow.

Applicant.

By Advocate Shri B.K. Yadav

Vs.

1. Director general, Counsel for Scientific and Industrial Research center, New Delhi.
2. Director, Central Drug Research Institute, Chatar Manzil, Lucknow.
3. Administrative Officer, D.D.R.I. Chhatar Manzil, Lucknow.

Respondents.

By Advocate Shri P.K. Srivastava holding brief of Shri A.K. Chaturvedi.

Order

By Hon. Mr. Justice Khem Karan, Vice Chairman.

1. This is the third round of litigation in respect of compassionate appointment. The applicant is praying that the order dated 15.12.05 (Annexure-1) by which his request for compassionate appointment has been turned down, be quashed and the respondent No.2 be directed to consider his case for compassionate appointment.

2. He alleges himself to be the son of late Smt. Rizwana Khatoon, who was admittedly in employment of the respondents and who died on 12.5.2003 at the age of 49. According to the applicant, she left behind her three sons (including the applicant) and two unmarried daughters and the condition of the family is extremely poor one. He says that earlier, his mother had moved one application dated 30.6.2001 (Annexure A-2) requesting the respondents to grant her voluntary retirement on medical ground and to give job to one of her sons as the economic condition of her family was pitiable one. It is said, considering the serious ailment of his mother, the respondents dropped the pending disciplinary proceedings vide order dated 17.12.02 (A-5) but passed no orders as regards her

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request for compulsory retirement on medical grounds and as regards her request for giving compassionate appointment to one of her sons. It is alleged that after her death, the applicant moved application dated 26.5.2003 (Annexure A-7) requesting for giving him compassionate appointment, but the opposite party No.3 rejected it summarily vide order dated 10.6.2003 (Annexure A-8). He challenged this order dated 10.6.2003, by filing O.A. No. 21 of 2004 which this Tribunal finally disposed of vide order dated 4.2.2004 (Annexure-10) directing the respondent No.2 to decide the representation dated 16.9.03 of the applicant by passing a reasoned and speaking order. He says that the respondents again rejected his request vide order dated 1.4.04 (Annexure A-11) saying that he had already crossed the upper age limit for such appointment. The applicant filed another O.A. No. 272/05 challenging the said rejection dated 1.4.2004 and directed the respondents to consider the case giving relaxation in upper age limit as per rules and instructions within a period of three months. This time also they have rejected the case for compassionate appointment vide order dated 15.12.05 (Annexure-1) mainly on the ground that late Smt. Rizwana Khatoon did not show applicant's name in her dependants and the request of the applicant came much after death of Smt. Rizwana Khatoon and that the applicant was inconsistent as regards the date of his birth and so, there was a serious doubt whether he was honest in making a request for such appointment. It has also been said that the applicant is probably in some private employment. It is this order dated 15.12.2005 which is being challenged in this O.A. on the ground inter alia that there is a Govt. order No. 14014/6/86 Estt. (D) dated 30.6.87 to the effect that son or daughter of a serving employee having been given invalid pension under Rule 38 of CCS (Pension) Rules, can be considered for compassionate appointment,



but the respondents have not kept that provision in view while considering the case of the applicant.

3. The respondents contested the claim by filing written reply. They have reiterated the same grounds which have been referred to in the impugned order. According to them, late Smt. Rizwana Khatoon was retired on medical grounds on 17.12.2002 and in her details of family, given under Rule 54 (C-3), she mentioned about her two daughters only and did not give the name of the applicant. They say that in view of this declaration about family members of her family, it is doubtful as to whether the applicant can be given any such compassionate appointment, on the ground that Smt. Rizwana Khatoon was given invalid pension under rule 38 of CCS (Pension) Rule. They have also tried to say that the applicant never applied for such appointment during the life time of Smt. Rizwana Khatoon, nor Smt. Rizwana Khatoon ever requested for the appointment in her place. Much has been said in the context of the discrepancy about the date of birth of the applicant. They want to say that the applicant ^{has} ^{changing} had been ~~challenging~~ his stand as regard the actual date of birth ^{of his birth.}

4. The applicant has filed Rejoinder saying that the respondents are not right in saying that Smt. Rizwana Khatoon was retired on medical grounds. According to him, she was very much in job on the date she died. As regards discrepancy in date of birth, the applicant stated in para 10 of his rejoinder that he never submitted certificate of Girdhari Singh Inter College and he passed High School in the year 1991 from Hindi Sahitya Sammelan and the date of birth recorded therein was 24.3.1970. He reiterated about the poor economic condition of the family.

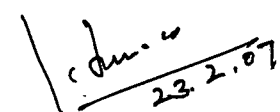


5. I have heard Shri B.K. Yadav for applicant and Shri P.K. Srivastava holding brief of Shri A.K. Chaturvedi for respondents and have perused the material placed on record.

6. This Tribunal is not sitting in appeal over the rejection dated 15.12.2005. The applicant has not been able to satisfy as to how he took conflicting stand as regards the date of birth. In his application dated 21.5.2003 (A-7), he noted 24.3.1961, as his date of birth but now he says in para 4 XXII of the O.A. that it is 24.3.70. He says it was by way of inadvertent error that 23.3.1961 was recorded in school certificate, which was subsequently corrected as 24.3.70. But he is still unable to satisfactorily explain, how year of birth is noted as 1961, in C-10, which he gave to respondents. Rizwana Khaton was born in the year 1955 as shown in C-4, then how he could have been her son in 1961. If due to these discrepancies, the respondents have doubted the genuineness of his claim, it is difficult to say that they are wrong. Moreover, late Smt. Rizwana Khatoon, did not mention him as member of her family, in details of family (C-3) submitted on 24.1.2003. The respondents⁴ say that Smt. Rizwana Khatoon never asked for giving appointment to the applicant, and the same finds support from her letter dated 18.7.2002 (A-3). There is no proof⁴ that letter dated 30.6.2001 (A-2) ever reached the respondents in the life time of Smt. Rizwana Khatoon. It is true that office Memo dated 30.6.1987 (A-9) provides for considering the appointment of son or daughter, of the servant, retired under Rule 38 of the Rules of 1972, but that alone, will not serve the purpose, in the circumstances mentioned above.

7. I am of the view that there are no good grounds for interference of this Tribunal. The O.A. is dismissed but with no order as to costs.




23.2.07
Vice Chairman