

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

**Original Application No.29/2007
This the ^{5th} day of March, 2009**

HON'BLE MR. M. KANTHAIHAH, MEMBER JUDICIAL.

Smt. Sharda Devi, aged about 38 years, W/o Lt. Sri Vinod Kumar, R/o Brij Vihar Colony, Telebagh, Lucknow.

...Applicant.

By Advocate: Shri V.K. Srivastava.

Versus.

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Chief Engineer, Head Quarter, Central Command, M.G. Road, Lucknow.
3. Commander Works Engineer, Head Quarter, Central Command, 229, M.G. Road, Lucknow.
4. Garrison Engineer, E/M, 36, Lal Bahadur Shastri Marg, Lucknow.

... Respondents.

By Advocate: Shri K.K. Shukla for Dr. Neelam Shukla.

ORDER

BY MR. M. KANTHAIHAH, MEMBER JUDICIAL.

The applicant has filed the OA with a prayer to set-aside the rejection order Dt. 27.12.2006 (Annexure-A-1) under which the Respondent No.2 rejected the claim of the applicant for compassionate appointment and also for further direction for his appointment. The applicant has challenged the impugned order on

the ground that the rejection order is not speaking order and there was no delay on the part of the applicant in submitting her application. She also contended that the respondents did not consider the fact that all the terminal benefits, which she received exhausted in repaying the loan amount and she has no other source of income to maintain her three daughters and son with the family pension.

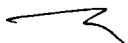
2. The respondents have filed Counter Affidavit, and also Supplementary Counter Affidavit, opposing the claim of the applicant stating that the authorities have passed reasoned and speaking order as per rules and does not require any interference of this Tribunal.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and reiterated the pleas in his OA.

4. Heard both sides and also perused the records in respect of proceedings of Circle Relaxation Committee held on March, June and September, 2006 before passing rejection order Ann-A-1 dt. 27.12.2006.

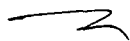
5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the husband of the applicant late Vinod Kumar, while working in the office of respondents, died on 10.02.2002, leaving behind the applicant (wife), three daughters and one son. Out of which, 2 daughters and son are minors. Immediately, the applicant made



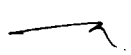
representation for her appointment on compassionate ground on 26.09.2002 seeking appointment on compassionate ground and even after complying the objections raised by the authorities for submitting of documents, when there was no response, she was constrained to file OA.No.321/2006, claiming compassionate appointment but the said OA was disposed of on 20.11.2006, with a direction to the respondent authorities to decide the representation of the applicant within a period of 2 months. Annexure-A-9 is the copy of the order Dt. 20.11.2006 passed in O.A.No.321/2006. After receiving the copy of the order dt. 20.11.2006, the Respondent No.2 passed order Dt. 27.12.2006 (Annexure-A-1), which is under challenge on the ground that the same is not reasoned one and also they have not considered the financial condition and maintenance of 2 minor daughters and son and another daughter with the meager amount of monthly pension.

7. The Respondents No.2, rejected the claim of the applicant for appointment on compassionate ground on the ground that the deceased employee family received Rs. 2,16,732/- as terminal benefits and getting monthly pension of Rs. 2300/- + DR and the family owns property of Rs. 4 lacks. He also stated that the Board of Officers considered the claim of the applicant along with other candidates in the meeting held during March, 2006, June, 2006 and September, 2006 after taking into account each aspects referred by the applicant along with other candidates and gave



finding that due to more deserving cases and few vacancies the case of the applicant was not recommended by the Board of Officers and the same has been communicated to the applicant by the 2nd Respondent by way of rejection order (Annexure-A-1). From the said order, it is clear the Respondent No.2 passed orders after placing the claim of the applicant for her appointment on compassionate ground along with others eligible candidates and in which, they did not recommend the name of the applicant because of more deserving cases and availability of few vacancies. Further, they also stated that the family getting received terminal benefits of Rs. 2,16,732/- and also monthly pension of Rs. 2300/- + DR and the family owns property of Rs. 4 lacks.

8. But, it is the case of the applicant that the reasons given for rejection of her claim in impugned order is not at all correct and also expressed doubt in the selection held by Board of Officers stating that the applicant is more deserving candidate in the said selection but rejected her case. In pursuance of the direction of the Tribunal in O.A.No.321/2006 dt. 20.11.2006, the respondents No.2 re-considered the case of the applicant for compassionate appointment by placing the matter before Board of Officers in the month of December, 2006 in which, her name could not be recommended because of selection of more deserving candidates but the proceedings for the month of December, 2006 has not been provided along with the other records for perusal before the Tribunal.



9. Admittedly this Tribunal gave direction on 20.11.2007 (Ann-9) for reconsideration of the claim of the applicant on compassionate ground. The impugned rejection order (Ann-A-1) dt. 27.12.2006 and recital of it shows that the BBO considered the claim of the applicant in the month of December, 2006 after direction given by the Tribunal in O.A.No.321/2006 dt. 20.11.2006. But inspite of direction for production of records in respect of consideration of production of records in respect of consideration of the claim of the applicant in the month of December 2006 or after direction of this tribunal dt. 20.11.2006. The respondents have not produced any such proceedings of BBO to show that they have reconsidered the claim of the applicant as per the direction of this tribunal dt.20.11.2006 and in the absence of any such records this tribunal has no option except to direct the respondents authorities to reconsider the claim of the applicant for her appointment on compassionate ground and with a reasoned order within a period of two months from the date of supply of the copy of this order.

10. In the result, OA is disposed of as above. No costs.


(M. KANTHAIYAH)
MEMBER (J)

05.03.2009

Ak/.