

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. No. 124/2007.

This, the 9th day of August 2007.

Hon'ble Mr. Justice Khem Karan, Vice Chairman.

Pawan Kumar aged about 29 years
S/o Late Sri Asharfi Lal
R/o 14/98 Udai Ganj Lucknow.

Applicant.

By Advocate Shri C. B. Verma.

Versus

1. Union of India through
its Secretary Science & Technology
Govt. of India, New Delhi.
2. Director
Industrial Toxicology Research Centre
M.G.Marg, Lucknow.

Respondents.

By Advocate Shri G.K. Singh. (Respondent No. 1)

Shri Dharmendra Dixit holding brief of Shri A.K.
Chaturvedi (Respondent No. 2)

Order(Oral)

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

Applicant has prayed that the respondents be commanded to appoint the applicant in Class III post on compassionate ground on regular basis under dying in harness rules.

2. The case is that his father Asharfi Lal was ^{an} employee of the respondents as Senior Technical Assistant and he died on 18.1.97, while still in service. Applicant gave application dated 30.1.97 (copy of which is annexed as Annexure-1) requesting the respondents to give appointment on compassionate grounds. It is stated that the respondents offered him engagement as Project



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Assistant on contract and temporary basis vide offer-dated 20/24/11/1998 (Annexure-2) and accordingly he joined. It is said that under the relevant rules regulating such compassionate appointments, applicant was entitled to be given regular appointments, but the respondents gave him contractual and temporary appointment. It is alleged that the authorities directed him vide order dated 4/5/99 (Annexure 3) to submit application for appointment under compassionate grounds, on revised profarma which he did but, nothing was done thereon. The contractual/temporary appointment as mentioned above, came to end on 30.5.2000, on closure of the project and consequently, the applicant became jobless. He says that he gave several representations and thereafter, filed a Writ Petition No. 5208(s/s) before the Hon'ble High Court at Lucknow which the Court disposed of vide its order dated 14.3.2007 (Copy of which is Annexure-6) asking the applicant to prefer an application before the Tribunal and directing the Tribunal to dispose of the same on merits within a period of 6 months. He therefore, filed this O.A.

3. Shri C. B. Verma has submitted that under the relevant rules regulating such compassionate appointments, applicant was entitled to regular appointment but instead of giving such regular appointment, the respondents gave him temporary/ contractual appointment and the same ended on closing of the project. Learned counsel has cited a Division Bench decision of Hon'ble High court in the case of *Ravi Karan Singh versus State of U.P. and others* reported in (1993) 3 UPLBEC 2263 so as to say that compassionate appointment is not a temporary appointment but has

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to be treated as permanent appointment. I think the case so cited by Shri Verma, does not apply to the case in hand. The nature of the appointment so offered to the applicant was coextensive with the life of the project. I do agree Shri C.B. Verma on the point that the relevant rules do not contemplate such type of eyewash but these aim at giving regular appointment, if the case is fit one, for such appointment.

4. Shri G. K. Singh has tried to say that it transpires from perusal of the Hon'ble High Court order that some order was challenged but that order has not been impugned in this O.A. Shri Verma has stated that what was challenged in the writ petition was the termination of the contractual/ temporary appointment and here the applicant, is coming for his compassionate appointment. He says that the earlier appointment being not as per rules, and so will not come in the way of applicant in claiming compassionate appointment on regular basis. The Tribunal does not express any view on the point as to whether, the applicant's case for compassionate appointment is fit one or not. That has to be looked into by the authorities concerned in accordance with the relevant guidelines but, this much is clear that his case for compassionate appointment has not been considered in terms of the rules and had it been done, he would have been given regular appointment. Sri G. K. Singh says application dated 7.8.2000 (A-4) has not been received in the office of the Respondent No. 1. I am of the view that his initial application given in 1997, is already there. That has not been properly disposed of and the same can be considered as per rules. In case any other formality is needed, the same could

be got fulfilled but to insist that he should give another application for such appointment, may not be justified. So this O.A. is finally disposed of with a direction to the Respondent No. 2 to reconsider the case of the applicant for compassionate appointment pursuant to his application dated 31.1.1997 (Annexure-1) in accordance with relevant rules on the subject and in the light of the observations made above, within a period of 4 months from the date a certified copy of this order is produced. In case, any testimonials certificates etc are needed or are wanting, the same may be had from the applicant by intimating him in writing and if such intimidation is received by the applicant, he will comply with the same promptly so as to facilitate the consideration of his case for compassionate appointment. No order as to costs.

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9.8.07

(Khem Karan)
Vice Chairman.