

Central Administrative Tribunal Lucknow Bench Lucknow

O.A. No. 242/2008

Lucknow, this the 25th day of August 2009.

Hon'ble Dr. A. K. Mishra, Member (A)

Aswani Srivastava,
Aged about 27 years,
S/o Late Krishna Chand Srivastava,
Sr. Elect. At HIS GEENI, Lucknow resident
Of Vrij Vihar, Telebagh Past Khirka, Near Mukesh
Atta Chakkee,
Lucknow.

Applicant.

By Advocate Sri A. K. Agnihotri.

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi.
2. The Engineer in Chief Garrison Engineer, Em36, Lal Bahadur, Shastri Marg, Lucknow.
3. The Chief Engineer, Head Quarter, Central Command Lucknow Zone, Lucknow.

Respondents.

By Advocate Sri S. P. Singh for Dr. Neelam Shukla.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant has challenged the order dated 7.4.2008 of Respondent No. 3 rejecting the representation for his compassionate appointment. Earlier, he had filed O.A. 177/2007 and the Tribunal directed the respondent authorities to pass reasoned orders as per rules on the representation. The impugned order has been passed in compliance with the direction of this Tribunal and the representation has been rejected.



2. The grounds taken in the application are:
 - i) that the impugned order is a mechanical one without application of mind to the facts of the case;
 - ii) that the indigent circumstances of the applicant have not taking into consideration;
 - iii) that the representation dated 10.5.2002 of his mother was not taken into consideration.

3. His mother's representation reveals that her elder son was not looking after the family any more and she was living separately with her younger son and other members of her family; that after the death of her husband her family has fallen into indigent circumstances and there was no one to support her family financially. For the aforesaid reasons, she pleaded for appointment of her younger son on compassionate grounds.

4. I examined the impugned order dated 7.4.2008. It states that soon after the death of his father, the applicant's mother applied on 25.11.98 for appointment of her elder son Santosh Kumar Srivastava on compassionate grounds on the post of Lower Division Clerk. This application was considered by the Board of Officers constituted for the purpose and her application was rejected on 13th May 2002.

5. His mother allegedly came up with another representation dated 10.5.2002 to appoint her younger son, the present applicant, on compassionate basis. But there is no proof of its having been received in the office of respondent authorities. There is a legal notice dated 17.10.2006 signed by the counsel for the applicant addressed to the respondent authorities to consider the request of the applicant for compassionate appointment. No

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where in this letter (Annexure 1) is there any mention of about the representation of the applicant's mother dated 10.5.2002. His mother's representation at Annexure 5 although shown to have been signed on 10.5.2002 was dispatched on 15.1.2008 as seen from the postal receipt which has been embossed on the bottom of the representation. This casts has serious doubt about the existence of this representation on 10.5.2002. However, this was annexed to the O.A. 177/2007 and has been referred in the order dated 9.1.2008 as Annexure-5. The respondent authorities have taken into consideration the instructions of Ministry of Defence and Department of Personnel and Training , which is the nodal department on the subject, and rejected the representation on the ground that the case for compassionate appointment should be closed as per Government instructions after three years from the death of an employee and not re-opened again. Accordingly, the representation, which was annexed to the O.A. 177/2007, on which a direction was given by this Tribunal for consideration, was finally rejected.

6. It is strange that the counsel for the applicant should have pleaded non-consideration of the representation dated 10.5.2005, specifically when the impugned order refers to the direction of this Tribunal in O.A. 177/2007 where his mother's representation dated 10.5.2002 was specifically mentioned. The respondents have followed the instructions of the nodal department as well the administration department in closing the case for compassionate appointment after three years. It is not denied by the applicant that the earlier representation regarding appointment of his elder brother was rejected on 13.5.2005 and more than 3 years had elapsed before the second representation about the applicant was made.

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7. In the circumstances, I find no infirmity in this order. As a result, the application is dismissed as devoid of merit. No costs.


(Dr. A. K. Mishra)
Member (A)

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