

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Original Application No.423/2009
This the 11th Day of March 2011**

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Balendra Bhushan Singh, aged about 32 years, Son of Late Sri Shiv Praap Singh, R/o Village Bhadausi, Post Garwara, District-Pratapgarh.

...Applicant.

By Advocate: None.

Versus.

1. Union of India through the Secretary, Ministry of Home, Central Secretariat, New Delhi.
2. Director General, Custom and Central Excise, New Delhi.
3. Commissioner, Central Excise, Allahabad.
4. Assistant Commissioner, Central Excise, Raibareli.

.... Respondents.

By Advocate: Sri S.P. Singh.

ORDER (Dictated in open Court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

List revised. Nobody is responding for the applicant.

2. Sri S.P. Singh, learned counsel for other side says that C.A. was filed way back on 30.04.2010 but no R.A. has been filed till date despite several order of this Tribunal. It is also comes out from the records that during this period this case was fixed at least on 7 to 8 occasions but neither the applicant nor his counsel appeared except that on few occasions request was made by learned brief holder of the learned counsel for the applicant for adjournment.

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3. As the applicant has not filed any R.A. despite several occasions the pleadings are deemed to be complete. Accordingly, this Tribunal proceeds with the final hearing.
4. Heard the learned counsel for the respondents and perused the material on record.
5. This O.A. has been filed for quashing of order dated 21.09.2007 so far as it relates to the applicant and order dated 4.05.2009 (Annexure-2 and Annexure-1).
6. The applicant's case is that his father was an employee of Custom and Central Excise, who died in harness on 11.08.2001. It further comes out that an appointment on compassionate ground was sought in favour of the applicant but it was not given. Consequently, O.A.No.448/2004 was filed. In that O.A. reply was filed from the order side saying that's there was no vacancy since 1998. Taking cognizance of this statement, the Tribunal directed the respondents to consider the case of the applicant on availability of the vacancy (Annexure-6). It is further said that the respondents have now rejected his request and closed the case on the ground that more than three years have elapsed.
7. From the other side, it has been said in the C.A. the name of the applicant was at serial number 23 of the waiting list for compassionate appointment of the Central Excise, Commissionerate, Allahabad. There is an Office Memorandum dated 05.05.2003 issued by DOPT which has been widely circulated. According to it maximum time for which a person's name can be kept under consideration for compassionate appointment would be three years and it may be decided with the reference to the date of death of the employee dying in

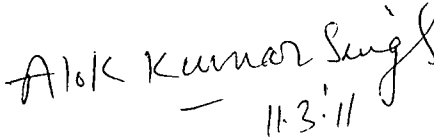
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harness. It is further said that the case of the applicant was considered alongwith several others by the review committee in the light of the aforesaid O.M. and thereafter, the matter was closed as no vacancy was available and all concerned were informed accordingly. Therefore, it is said that there is no illegality in the order dated 21.09.2007 and 4.05.2009.

8. The learned counsel for respondents also draws the attention of this Court towards an order dated 16.07.2010 of this Tribunal deciding O.A.No.365/2009 wherein, these very two orders dated 4.5.2009 and 21.09.2007 were challenged. Finally, this Tribunal has observed that after a lapse of 12 years the applicant could not be considered for want of vacancy and no such vacancy was available even at the relevant time of filing of O.A. Therefore, Tribunal did not find any fault with the decision taken by the respondents. Finally, the OA was dismissed. A Photostat certified copy of this judgment has been placed before this Tribunal which is taken on record.

9. In view of the facts and circumstances of the case and also having regard to the aforesaid order of this Tribunal passed in O.A.No.365/2009, I do not find any ground to arrive at a different conclusion. It is also noteworthy that in the present OA it is nowhere mentioned that on the date of filing of this OA any vacancy either occurred or is now available.

10. In view of the above therefore this OA is dismissed. No order as to costs.


11.3.11
(Justice Alok Kumar Singh)
Member (J)