

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.337/2009

This the 28th day of August, 2009.

Hon'ble Ms. Sadhna Srivastava, Member (J)

Shri Anil Kumar aged about 38 years, son of Sri Chhotey Lal residence of H.No.557/15-Ga, Kaushilya Bhawan, Om Nagar, Alambagh, Lucknow.

.....Applicant

By Advocate: Sri P.N. Singh.

Versus.

1. Union of India through the Secretary, Defence Department, Central Secretariat, New Delhi.
2. Commandant, Central Ordinance Depot., Kanpur.
.....Respondent

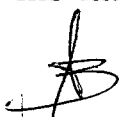
By Advocate: Sri K.K. Shukla for Dr. Neelam Shukla.

ORDER (Oral)

By Ms. Sadhna Srivastava, Member-J

The applicant has approached this Tribunal for quashing of the order 13.02.2009 as contained in Annexure-A-1, whereby the request of the applicant to appoint him on compassionate ground has been rejected.

2. The facts as alleged in the OA are that the applicant's father namely Chhotey Lal died, while in service, on 4.1.1993. The deceased employee left behind the widow, four sons including the applicant and two daughters. After the death of his father, the applicant made an application for appointment



on compassionate ground but they were not decided hence an O.A.No.48/1998 was filed by the applicant, which was disposed of on 1.5.1998 with a direction to the respondents to consider the case of the applicant as per rules and guidelines on the subject and pass a speaking order. Pursuant to the aforesaid direction the case of the applicant was processed by the appointment authority. His case was considered nine times alongwith other candidates and finally rejected vide order dt.7.2.2009 passed by Commandant, COD, Kanpur i.e. Respondent No.2.

3. Heard counsel for the parties.

4. It appears from the records that the applicant's case was placed before a Committee of Higher officers specially constituted for the purposes of examining the cases for appointment on compassionate ground. The committee had considered the case of the applicant alongwith other candidates in the light of the direction issued from time to time by the Ministries. The committee has formulated point of objective assessment of the financial condition of the family keeping in view amount of terminal benefits, family size including the ages of children, amount of family pension, minor children, liabilities in terms of unmarried daughters, movable and immovable property left over by the deceased of each candidates and awarded points to each candidates.

5. It is recorded in the impugned order that the applicant's case was considered nine times during the period from 30.11.1993 to 24.11.1998 and out of nine times he was awarded 40 marks eight times. In the last chance, he was



awarded 30 marks. The committee had prepared the list of deserving candidates on the basis of points secured by each candidates against the available vacancies pertaining to the extent of 5% direct recruitment quota. The applicant secured 40 marks whereas; other candidates who have been given appointment have secured maximum 92 and minimum 56 marks. It means who secured 92 to 56 marks could be considered for compassionate appointment and were given the appointment. The applicant who secured 40 marks could not be placed in the merit position. In the impugned order the respondents have given the chart showing the vacancies and marks obtained by the other candidates as well as by the applicant. The chart given by the respondents clearly leave no room for doubt that since the applicant was not found meritorious in comparison to other candidates, his case was rejected. It cannot be denied that the assessment is carried out by the higher officers and since it was carried out as per formula earlier worked out and the formula adopted was applied uniformly to all the cases, there is hardly any ground to challenge the assessment of higher officer committee. In any case, it is not open to the Tribunal to interfere with the objective assessment carried out by a committee. In the instant case, the respondents have considered the case of the applicant nine times and the candidates more meritorious than the applicant have been offered appointment. Since, it is policy decision of the government to reserve 5% of total vacancies in direct quota and this 5% quota are not to be exceeded, the Tribunal cannot interfere in the policy decision of the



government and cannot direct the respondents to consider the case of the applicant. It is suffice to observe that I am satisfied that duly constituted committee has considered the case of the applicant for compassionate ground and applicant secured less marks than others. He has already been considered nine times. Therefore there is no reason to direct reconsideration again.

6. The OA deserves to be rejected at admission stage itself and in the conclusion, the OA is dismissed. No order as to costs.


(Ms. Sadhna Srivastava)
Member-J

Amit/-