

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. No. 315 of 2006

Date of order : 27.11.07

C O R A M

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

Manoj Kumar Bhagat, S/o late Mahavir Bhagat, r/o village – Baji Bujurg, P.O. Sundespur, P.S. Sakra, District – Muzaffarpur.

...Applicant

By Advocate : Shri J.P. Verma

Vs.

1. The Union of India through the Secretary, Ministry of Water Resources, 104, Seva Bhawan, R.K. Puram, New Delhi – 66.
2. The Director, Prabadhan -cum- Superintendent, Directorate, Govt. of India, Central Water Commission, Kasturba Path, North S.K. Puri, Patna.
3. The Chief Engineer, Nichli Ganga Basin, 177/B, Govt. of India, Central Water Commission, Regional Office, North S.K. Puri, Patna.
4. The Supreintending Engineer, Central Water Commission, Kasturba Path, North S.K. Puri, Patna.
5. The Adhishashi Abhiyanta, Madhya Ganga Mandal, Division No. 4, Central Water Commission, Rajendra Nagar, Patna.
6. Assistant Executive Engineer, Buri Gandak, Central Water Commission, Sub-divisional Office, Muzaffarpur.

....Respondents

By Advocate : Shri D. Surendra.

ORDER

S. Srivastava, M (J):- The grievance of the applicant is that he has not been provided appointment on compassionate ground.

2. The facts, in brief, are that the applicant's father , namely, Mahavir Bhagat died in harness on 14.1.2001 while he was posted as Boat Man in the



Department of Central Water Commission, Sitamarhi, leaving behind widow, two married daughters, one unmarried daughter and two sons. After the death of late Mahavir Bhagat, his widow made an application for compassionate appointment of her son [applicant]. The case of the applicant was considered by the screening committee, and the same has been rejected vide order dated 10.7.2003, as contained in Annexure A/3 on the ground that his case is not fit for grant of compassionate appointment. Hence this OA.

3. The applicant has challenged the impugned order mainly on the ground that the respondents have rejected the case of the applicant vide order dated 10.7.2003 without assigning any valid reason which is unjustified, hence liable to be quashed. It is further contended that the Hon'ble Supreme Court in the case of [a] Sushma Gosain and Ors vs. Union of India and Ors; AIR 1989 SC page 1976 , and [b] Director of Education & Anr. vs. Pushpendra Kumar & Ors; 1998 [2] PLJR [SC] 181, has held that in all claims for appointment on compassionate ground there should not be any delay in appointment, because the purpose of providing appointment on compassionate ground is to mitigate the hardship caused due to death of bread earner in the family. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant.

4. The respondents have filed written statement stating therein that in the year 2001 the total vacancies available were 40 , out of which maintaining a ceiling of 5 % for compassionate appointment, the vacancies available for



consideration of compassionate appointment were two in number. Against these two vacancies, 8 applicants were considered for compassionate appointment. The screening committee, after going through the entire papers of all the candidates, including the applicant, have recommended the name of two suitable wards of late Raghunath Raut and Sarda Nand Jha as most deserving candidates. The rest of the candidates, including the applicant having lesser merit had been denied appointment due to non-availability of vacancies under 5 % quota meant for the purpose. The respondents have filed photo copy of the report of screening committee as Annexure R/5 to the written statement.

5. Heard learned counsel for the parties and perused the pleadings. It is well established that the Courts cannot direct appointment on compassionate grounds dehors the provision of the scheme in force. In the case of Yogendra Sharma vs. UOI 2002 [8] SCC 65, the Apex Court had held that the High Court/Tribunals cannot compel the department to relax the ceiling of vacancies and appoint a person. In the instant case, from perusal of Annexure R/5, it is revealed that only two vacancies were available. Therefore, the only question is whether the wards of Raghunath Raut and Sardanand Jha were arbitrarily appointed i.e., the applicant was placed in more indigent circumstances than them. The facts which were taken into consideration by the screening committee to judge the indigent circumstances of each candidate were the liabilities and responsibilities left by the deceased employee, the period of the service rendered by the deceased employee and the financial status of the deceased

family. From Annexure A/5 it is clear that the number of dependents who require support were more in the case of Raut and Sardanand Jha than the applicant. In the case of the applicant, there is no major liability. All the daughter of the deceased employee were married, and there is no minor /school going child. Therefore, in the circumstances of the case, no direction can be issued to the respondents to appoint the applicant on compassionate ground.

6. Accordingly, there is no merit in the OA, and the same is dismissed without any order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/