

CENTRAL ADMINISTRATIVE TRIBUNAL**PATNA BENCH, PATNA****OA No. 459 of 2006**Date of order : 3rd August, 2007**C O R A M**

Hon'ble Mr. Amit Kushari, Member[Admn.]

Shailesh Kumar, S/o Late Upendra Kumar Verma, resident of Village
& P.O. - Radhapur, P.S. - Sursand, District - Sitamarhi.Applicant

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1. The Union of India through the Secretary, cum D.G., Council of
Scientific & Industrial Research, 2- Rafi Marg, Anusandhan Bhawan,
New Delhi.2. The Joint Secretary [Admn.], Council & Industrial Research, Rafi
Marg, Anusandhan Bhawan, New Delhi.3. The Deputy Secretary, Council of Scientific & Industrial Research,
Rafi Marg, Anusandhan Bhawan, New Delhi.4. The Director, Central Fuel Research Institute [Council of Scientific
& Industrial Research], P.O. - F.R.I., Dhanbad.

5. The Controller of Administration, C.F.R.I., Dhanbad.

Respondents.

Counsel for the applicant : Shri J.K. Karn

Counsel for the respondents : Shri Dwivedi Surender, ASC

ORDER

By Amit Kushari, Member [A] :-

Shri J.K.Kam, ld. counsel argued on behalf of the applicant and Shri Dwivedi Surender, ld. ASC argued on behalf of the respondents. Their arguments were heard and the pleadings were perused carefully.

2. The applicant is the son of a Stenographer who died in harness on 3.4.2001 while working in the Central Fuel Research Institute, Dhanbad. The father of the applicant left behind a big family including the widow, two unemployed sons, one unmarried daughter aged 25 years and one divorcee daughter who was also totally dependent upon the deceased father. The widow was also employed as a Teacher in the government but later on she has retired. The widow is getting family pension as well as another pension from the school where she worked. However, with these two pensions, it is not possible to meet the requirements of such a big family which included two unemployed sons and two unmarried/divorcee daughters. The applicant was kept waiting for about ten months then he was asked to appear before the Compassionate Appointment Committee. The applicant had applied for compassionate appointment immediately after the death of his father. Thereafter, after waiting for another nine

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months, the applicant got a letter from the respondents that his case on compassionate appointment was not found to be meritorious enough and hence his request has been turned down. The applicant had challenged this order of the respondents through O.A. No. 342 of 2003 before this Tribunal. This was disposed of on 10.4.2003 directing the respondents to re-consider the matter and decide the case of the applicant in terms of the circulars of DOP & T regarding compassionate appointment. The respondents did not take any step to remove the grievances. Thereafter a CCPA was filed and after that the respondents issued a speaking order and again rejected his claim. This time they added a new ground for rejection, i.e. within the ceiling of 5 per cent of vacancies, it was not possible to accommodate the case of the applicant. Since speaking order had been issued by the respondents, the CCPA filed by the applicant also failed before this Tribunal. The applicant requested the respondents to give the details of people appointed on compassionate ground but he could not get necessary information. Then he applied under RTI Act for this information and then he was told that six persons have been appointed on compassionate ground after 2001. The applicant feels that his case is more deserving than some of these six cases approved by the respondents.

3. Shri Dwivedi Surender, Id. ASC drew my attention to a few facts.

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He says that the family has been granted Rs.5.62 lacs as retirement benefits on the death of the employee. The widow also being State Govt. employee, received reasonable amount of retiral benefits on her retirement. The widow is receiving 2 pensions from 2 different sources, and therefore, could not be considered to be a family on the brink of starvation needing immediate help in the form of compassionate appointment. The ld. counsel for the respondents also points out that one of the unmarried sisters of the applicant also worked as a Research Intern in the CFRI, Dhanbad at a consolidated pay of Rs. 7,500/- per month for almost two years. She was also working as a Teacher in the Carmel School of CFRI. He also drew my attention to page 5 of the written statement where it was mentioned that this case of Shri Shailesh Kumar [applicant] was considered by the Director General, CSIR himself who is the competent authority and it was his considered view that the applicant cannot be termed as a financial destitute falling in the category of deserving case for compassionate appointment. The ld. counsel for the respondents also pointed out that compassionate appointment is not a matter of right and it is only the competent authority who has to take an overall view in the matter to decide as to which case should deserve priority. He also points out that six cases in which compassionate appointment has been granted by the respondents are




mostly the case of widows who were having the liability of feeding small children or in a couple of cases unemployed sons also got compassionate appointment but these unemployed sons did not have any source of income unlike the present applicant.

4. I have carefully considered the rival view points. Compassionate appointment is not a matter of right – it is rather an exception to the rule. These appointments are made only on consideration of poverty and starvation and not on consideration of merit of a candidate. Therefore, these cases have been limited to a maximum of 5 per cent of the available vacancies. Naturally very few vacancies are available for filling up on compassion and, therefore, there is a lot of competition between poor, very poor and outstandingly poor candidates. In a poor country like India naturally such poor candidates would be huge ^{in number} and the number of vacancies restricted to 5 per cent would be miniscule. In such a situation, only outstandingly poor candidates will get a chance and poor or very poor candidates may not get a chance. The competent authority has to consider all aspects and decide as to who is an outstandingly poor candidate. In the present case, I find that the respondents have applied their mind on this issue and have analysed the case of the applicant with care. They tried to accommodate him but in the absence of sufficient vacancies and in the

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presence of other outstandingly poor candidates, the applicant could not be accommodated. That is not a fault of the respondents. The O.A., therefore, appears to be devoid of merit and the same is, accordingly, dismissed. No costs.


[Amit Kushari]M[A]

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