

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 387 OF 2005

[Patna, this Wednesday, the 3<sup>rd</sup> Day of October, 2007]

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

.....  
Bijay Kumar Prasad, son of Late Shiv Lekhan Prasad, resident of village – Bairamchak, P.O.: Nadaul, P.S.: Masaurhi, District – Patna... ....APPLICANT.  
By Advocate :- Ms. Sheela Sharma.

Vs.

1. Union of India through the Secretary, Department of Mines, Govt. of India, New Delhi.
2. The Director General, Geological Survey of India, 27, J.L.Nehru Road, Kolkata-16.
3. The Director-in-charge, Geological Survey of India, Eastern Region, Karunamayee Geological Building, 11 Floor, D.K., 6 Block, Sector-II, Salt Lake City, Kolkata-700 091.
4. The Deputy Director General, Geological Survey of India, Eastern Region, MGG Building, CGO Complex, Sector-I, of Block, 5<sup>th</sup> Floor, 'A' Block, Kolkata-64.
5. The Director, S.G., Drilling Division, Eastern Region, Geological Survey of India, Kolkata-91.
6. The Director, Geological Survey of India, J.C.Road, Patna.

.....RESPONDENTS.

By Advocate :- Shri Dwivedi Surendra, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Learned counsel for the applicant has already been heard as today the case was fixed for hearing the learned counsel for the respondents.

Shri Dwivedi Surendra, learned Addl. Standing Counsel who appeared for the respondents has been heard.

2. This is an application for appointment of the applicant on

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compassionate ground on account of death of his father on 12.02.1998, in harness. In sum total, briefly stated, the case of the applicant is that his case was placed for appointment on compassionate ground which prayer however was rejected vide letter communicated through letter dated 19.11.2004, which is at Annexure-A/6. In the letter it has been mentioned that the Government of India vide DOPT O.M. dated 05.05.2003 had decided that the request for appointment on compassionate ground could be considered for a maximum period of three years from the date of death/invalidation on medical ground of the Government servant, if clear regular vacancy under quota for compassionate appointment was available. Thereafter all such cases had to be closed. This letter, therefore, informed their inability to consider the prayer.

3. The main plank of argument by the learned counsel for the applicant, in response to the claim that in the meantime no vacancy could be made available for appointing the applicant, was that son of one Parmeshwar Bera, also an employee who had died in harness subsequent to the death of the applicant's father, was appointed by the respondents on compassionate ground, hence they could not claim that there was no vacancy.

4. On behalf of the official respondents it has not been denied that son of Parmeshwar Bera [Krishna Chandra Bera] was given such appointment against one vacancy that was available, but <sup>they</sup> claim that it was because his case stood on a better footing. Learned counsel submits that in the supplementary written statement which was filed under orders of the Tribunal, it has clearly been stated in para 3 that presently there is no vacancy either in Group 'C' or 'D' posts in the entire Eastern Region, hence many applicants did not get any appointment.

5. In so far as appointment of Krishna Chandra Bera is concerned,



3.

it has been pointed out that in para 6 of the supplementary written statement a comparative chart of the family of the applicant and of the family of Parmeshwar Bera is given. Learned counsel pointed out that the father of the applicant had left behind a widow and two sons whereas Parmeshwar Bera had left behind, besides the widow, three sons and one daughter. Moreover, the family of the applicant had received total terminal dues to the tune of Rs.2,47,627/-, whereas the family of Parmeshwar Bera had received a sum of Rs.2,11,463/- ,as mentioned in the comparative chart.

6. Obviously, an appointment on compassionate ground can be made only against the posts meant for it, i.e., not more than 5% of total vacancies accruing. Obviously, if there are more candidates than there are vacancies, the respondents have to make a choice by giving priority to more deserving candidates. If while giving such priority they have considered the status of the dependency upon the deceased employee and financial condition of the families, it cannot be said that if offer of appointment has been made strictly on that ground, than the respondents were at fault. In this case also appointment to the son of Late Parmeshwar Bera was given on such considerations as stated in the supplementary written statement. It is also submitted that no vacancy is presently available in either Group 'C' or 'D' posts. Obviously, if there is no vacancy, no one can be given appointment on compassionate ground.

7. In that view of the matter, I do not find that the decision of the respondents needs any interference.

This application is dismissed. No costs.

skj.



[P.K.Sinha]/VC