

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 502 OF 2005[Patna, this Friday, the 15th day of September, 2006]

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C O R A M

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

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Umesh Giri, son of Late Ramayan Giri, resident of village-Haripur, P.O.-
Chhotka Majha, PS- Mairwa, District-Siwan, Bihar.APPLICANT.
By Advocate :- Shri S. N. Thakur.

Vs.

1. The Govt. of India through the Secretary, Ministry of Urban Development, Govt. of India Press, Jawahar Nagar, Gangtok-737 103.
2. The Director, Directorate of Printing, B-Wing, Nirman Bhavan, New Delhi.
3. The Directorate of Printing through the Officer-in-Charge of Govt. of India Press, Jawahar Nagar, Gangtok-737 103.RESPONDENTS
By Advocate :- Shri B. N. Gupta, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- At the outset the learned counsel for the applicant prays to be allowed to correct a typographical mistake in date at page 5 of the application, in the last paragraph, which he is permitted to do.

2. Learned counsels for both the sides have been heard. In the circumstances of the case, this application is being disposed of at the stage of hearing on admission itself.

3. Ramayan Giri was the father of the applicant who was an employee in the Govt. of India posted at Gangtok and had died in harness on 15.05.1996, whereafter on 24.06.1996 before concerned authority at Gangtok an application for compassionate appointment of the applicant was filed. After



some correspondences in between, the applicant was directed to appear before the Officer Incharge for suitability test on 15.04.1997 whereafter his case was to be sent for consideration to the Hqrs. After some further correspondences, vide Annexure-A/6 dated 21.09.1998 the applicant was intimated that his case was considered by the Government but the same was not found fit to be acceded to. The applicant thereafter moved this Tribunal in OA 830 of 2004 which was disposed of by order dated 08.12.2004 at the initial stage itself, directing the respondents to give a fresh consideration to the matter with reference to the relevant rules and instructions and to dispose of the prayer by a reasoned order. That was done vide Annexure-A/9 dated 23.03.2005 whereafter the applicant, impugning that order in Annexure-A/9, has filed the instant application.

4. Learned counsel for the applicant has submitted that since Annexure-A/6, which communicated the order of rejection was not a speaking order, this Tribunal in the earlier OA had directed the respondents to record a speaking order which, the learned counsel claims, [Annexure-A/9] was not a speaking order at all as no cogent ground has been given therein. It is submitted that in that order it has been mentioned that pursuant to the order of the Tribunal the case of the applicant was reconsidered by the authorised Committee which found that even if the name of Umesh Giri was considered deserving for appointment on compassionate grounds to the post of labourer, his name would appear at sl.no. 83-A of the waiting list of deserving cases for Group 'D' posts, which number of vacancies was not expected to occur even in a period of next three years. Learned counsel for the applicant submitted that

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he was not in a position to challenge this averment that if the case of the applicant was considered for a Group 'D' post, his name would be at sl.no.83-A of the waiting list, but claimed that it was a bald submission without any proof. However, I find that this has been claimed in the speaking order, but the aforesaid submission is only an oral submission of the learned counsel, and that this particular statement in the speaking order at Annexure-A/9 has not been challenged specifically in the application. Therefore, there is hardly any reason to disbelieve this particular statement of fact given on the part of the respondents.

5. Learned counsel for the respondents has also pointed out Annexure-R/1 dated 23.02.1998 which was a letter sent by an authority at Hqrs. to the authority at Gangtok on the subject in which it has been stated that the deceased employee had died after service of 33 years & seven months at the age of 54 years & 3 months, leaving behind wife and two sons out of whom the elder one was married. It was also pointed out that the family of the deceased had received a sum of Rs.1,15,219/- as terminal benefits and was getting a sum of Rs.555/- every month as family pension. It was also claimed that from other sources the family was earning Rs.10,000/- per year. That letter, therefore, opined that it did not appear that the family was engulfed in some acute financial crisis and in that view of the matter the case was not considered fit for appointment on compassionate ground.

6. Learned counsel for the respondents also pointed out that the speaking order had given full reasons for rejecting the claim when the authorised Committee had reconsidered the matter on receipt of the order of

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this Tribunal in the earlier OA. It was stated therein that DOP&T vide their OM dated 22.06.2001 had advised that the empowered Committee should limit its recommendation to really deserving cases and restrict recommended cases to the number of vacancies available in that particular year under the concerned Ministry. This reasoned order also stated that vide OM dated 05.05.2003 the DOP&T had decided that if compassionate appointment in genuine and deserving cases was not possible in the first year, the Committee could review such cases and in deserving cases may extend the period of consideration for one more year subject to availability of vacancies under 5% quota of total vacancies. This OM prescribed a maximum period of three years upto which such a case could be kept pending, under review, and if it was not possible to offer any appointment to the applicant by then, his case was to be finally closed.

7. So it will appear that earlier the case of the applicant was not found fit for compassionate appointment and after receiving an order of this Tribunal at Annexure-A/8, the matter was reconsidered and it was found that if the name was kept in the waiting list, it would be at sl.no.83-A and such number of vacancies for compassionate appointment, in Group 'D' , was not likely to be available within the next three years.

8. Obviously, appointment on compassionate ground is not a legal right of a dependent of the deceased employee. Since the vacancies are restricted to only 5% of the total vacancies available in a particular grade, the authorities now have to find out as to who are the more deserving candidates to be offered appointment on compassionate ground to such scanty vacancies

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available for the purpose. Whatever posts were available earlier for such appointments may not be available now. If the name of the applicant is presently kept in the waiting list, he would be at sl.no.83-A in the list but would not be likely to be offered appointment to a Group 'D' post in near future [within next three years as per the respondents].

Father of the applicant had expired in the year 1996 and it is now more than ten years since his demise.

9. In the aforesaid circumstances, it does not appear to be proper to give a direction to the respondents to appoint the applicant on compassionate ground after such delay, particularly when the name of the applicant will have to be kept in the waiting list for a long period.

10. In that view of the matter, I do not find that this is a case which deserves being allowed on merits.

Dismissed. No costs.



[P.K.Sinha]/VC

skj.