

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

O.A. No. 661 of 2005

Date of order : 17.8.07

C O R A M

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

Smt. Joshpina Toppo wife of Late Menson Toppo, Ex-Sepoy, Type I quarter No. 60, Central Excise Colony, Shalempur Dumra, PS - Shastri Nagar, Patna, permanent resident of village - Chainpur, Gumla.

....Applicant

By Advocate : Shri V.K. Sinha

Vs.

1. The Union of India through the Commissioner, Central Excise Duty, Central Revenue Building, Birchand Patel Marg, Patna -1.
2. The Commissioner, Central Excise, Central Revenue Building, Birchand Patel Marg, Patna -1.
3. The Assistant Commissioner [Establishment] Central Excise [Head quarters], Central Excise Revenue Building, Birchand Patel Marg, Patna -1.
4. The Superintendent, Central Excise Duty, Central Revenue Building, Birchand Patel Marg, Patna -1.

....Respondents

By Advocate : Shri M.K. Mishra.

ORDER

Sadhna Srivastava, M (J):-

The subject matter is compassionate appointment.

2. The applicant is aggrieved on account of the fact that she has not been provided appointment on compassionate grounds.

3. The facts are that the husband of the applicant, employed as Sepoy [Class IV] under the Commissioner, Central Excise, Patna, died in

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harness on 28.4.2000, leaving behind applicant [widow] and two minor children. The applicant applied for Class IV job on 22.5.2000. Her case was considered by the department every year for three years, but for want of vacancy under quota for compassionate appointment, she could not be appointed. Thereafter, in accordance with instructions of DOPT dated 5.5.2003, adopted by the Finance Ministry also, the applicant was not considered. The instructions were to the effect that if the compassionate appointment is not possible to be offered for three years, his/her case will be finally closed and will not be considered again.

4. The applicant also alleges discrimination.

5. The learned counsel for the parties have been heard and records carefully perused.

6. It may be mentioned at the out-set that the appointment on compassionate ground is by way of exception. It is not a mode of recruitment to public service. The same is to be done within the limited quota of five percent on the ground of financial distress. In this case, there was no vacancy in the relevant years. Therefore, the applicant could not be appointed. The impugned order dated 5.5.2003 mentions the same clearly.

7. The next ground urged on behalf of the applicant that she was discriminated against also does not find support from the facts on record.

In reply dated 6.11.06 and 18.6.07 it has been clearly mentioned that [i]



the appointment of Kiran Jha was made on the post of Stenographer on 2.11.04, [ii] the appointment of Geeta Rani , wife of late Prabhu Sah was made on compassionate grounds in ~~BRL~~^{BRL}, Director of Revenue Investigation, [iii] Geeta Devi working in Excise Department is the widow of one Devendra Prasad , and she has been working in the Excise Department since 5.1.1982 [before the death of applicant's husband]. These facts have not been controverted by the applicant. Therefore, the applicant's allegation that she has been discriminated against has no leg to stand.

8. Resultantly, the OA has no merit, and it is dismissed without any order as to the costs.


[Sadhna Srivastava] M [J]

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