

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

O.A. No. 638 of 2005

Date of order : 24.02.2008

C O R A M

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

1. Smt. Nirmala Devi, Wife of Late Ishwar Lal.
2. Prakash Lal, S/o Late Ishwar Lal (both resident of Mohalla-Mithapur 'B' Area, behind Bhanamal Nahar Par, Patna.

....Applicants

By Advocate : Shri Shailendra Kumar

Vs.

1. The Union of India through Secretary, Government of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. The Chairman, Ganga Flood control Commission, Sinchay Bhawan, Patna- 15.
3. The Director (Administration), Ganga Flood Control Commission, Sinchay Bhawan, Patna.

....Respondents

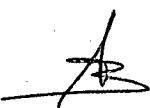
By Advocate : Shri M.K. Mishra.

ORDER (Oral)

By Sadhna Srivastava, M (J):-

The reliefs claimed in the instant OA are as follows:-

(i) That Your Lordships may graciously be pleased to quash the impugned order dated 25.5.2000, as contained in Annexure -1



(ii) Consider the case of applicant No. 2 on compassionate ground and issue appointment letter forthwith.

(iii) Respondents be further directed to give all consequential benefits in favour of applicant No. 2

2. The facts are that the applicant No. 1 ^{husband of} died in harness on 30.8.1998, while working as Driver under the Ganga Flood Control Commission, Patna. After the death of her husband, the applicant No. 1 filed an application before the respondents for appointment on compassionate ground of applicant No. 2. The application made by the applicant for the purpose of compassionate appointment was turned down vide order dated 25.5.2000. Then OA No. 721 of 2000 was filed by the applicant in which a direction was issued in their favour. The respondents, in the mean while, applied to the Ministry for relaxation of rules with a view to provide appointment on compassionate ground to the applicant. The Ministry did not agree to relax the rules. Therefore, letter dated 25.5.2003 (Annexure A/1) was issued. It has been time and again emphasised by the higher courts that the appointment on compassionate ground, being exception to the general rules, should be made within the frame work of the rules laid down on the subject. The Hon'ble Apex Court,

in the case of State of Rajasthan vs. Chandra Narayan Verma, 1994 (2) SCC 752 and also in the State of U.P. vs. Paras Nath, 1998 (2) SCC 412, has held that the compassionate appointment can be made only in consonance to the rules applicable and no direction for giving appointment on compassionate ground dehors the rules could be issued.

3. In this view of the matter, I am of the opinion that this Tribunal has no reason to interfere with the impugned order which has been issued in accordance with rules.

4. The second relief claimed is for issuance of direction to the respondents to consider the case of the applicant No. 2 for appointment on compassionate ground. Such direction has already been issued by this Tribunal in OA 721 of 2000. Therefore, it is not appropriate to repeat the same direction.

5. The applicant has raised a grievance about the appointment of one Mahesh Ram as peon in the organisation of the respondents. In this regard, it may be mentioned that the said appointment was not on compassionate ground. It is not possible to say that unless appointment of the applicant on compassionate ground is considered, no other appointment can be made in the department. Such an



observation will amount to misuse of process of law.

6. In the above circumstances, I do not find any illegality in the order passed by the respondents. Hence OA is dismissed. No order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/