

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:696/2001
DATED THE 26 DAY OF March, 2002**

CORAM: Hon'ble SMT. SHANTA SHAstry, MEMBER (A)

Bharat Shankar Sutar,
Residing at 441, Jayati Kute Chawl,
Dapodi, Pune - 411 012. Applicant

None for Applicant

v/s.

1. Union of India,
through the Secretary
Ministry of Defence,
South Block,
New Delhi-110 001.
2. Institute of Armament Technology,
through the Director and Dean,
Girinagar, Pune-411 025. Respondents

By Advocate Shri R.R.Shetty for
Shri R.K.Shetty

(ORAL) (ORDER)

Per Smt. Shanta Shastray, Member(A)

The applicant in this OA has approached for Compassionate Appointment to any post in class-IV category ignoring the age limit.

2. The applicant's father was working a Technician-C in the Institute of Armament Technology. He expired on 4/6/95 while in service. According to the applicant he was 16 years old when his father expired. The mother of the applicant sought employment for the applicant with the Institute. Since applicant was minor, his application for employment could not be considered untill he attained majority. Therefore, after he attained majority, the applicant's mother again made another application to the Director and Dean, the second respondent. It was represented that the

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family is living in dire conditions after the death of the applicant's father. The applicant made further representations from time to time and applicant's mother was informed on 5/1/99 that there was a post of Helper vacant, however since the qualification of SSC was required according to recruitment rules, the applicant could not be taken into employment in that post.

3. The respondents rejected the applicant's prayer for compassionate appointment on two grounds, namely that the applicant had approached for compassionate appointment after more than five years of the death of his father and therefore such an application could not be considered since the crises in the family was over. Also since the applicant's educational qualification at that time was VIIth standard pass only, he could not be considered for appointment to Group 'D' post in the Defence Research and Development Organisation (DRDO). Applicant's mother was informed accordingly vide letter dated 2/11/99.

4. It is the contention of the applicant that there was no delay on the part of the applicant in approaching the respondents for compassionate appointment. The mother of the applicant had immediately applied but the applicant being a minor could not be given any employment. Therefore, he applied only after becoming major.

5. The applicant has further contented that it is not necessary to have SSC qualification for certain group 'D' jobs like Labourers, Gardeners, peons, fireman, etc and therefore the applicant could certainly have been considered for compassionate appointment against such posts.

6. The learned counsel for the respondents submits that the applicant's father was in the Institute of Armament Technology in the DRDO. According to the recruitment rules for the post of Helper in DRDO, the minimum qualification required is SSC and the only post vacant was that of Helper. Therefore, the applicant could not be granted compassionate appointment. However, the respondents have also cited OM dated 12/2/2001, a copy of which has been produced at page-59 of the paperbook. It has been clearly stated in this that Family of five persons with an income below Rs.1767.20 is to be treated as a Family below poverty line. In the applicant's case. Family pension has already been granted and the same comes to Rs.3,334/- including the Dearness Relief. Thus, the applicant's family which consists of his mother and brother besides himself cannot be said to be a family below poverty line or being in dire circumstances and therefore also the respondents were justified in not granting compassionate appointment to the applicant.

7. The respondents also raised the objection of limitation in that the respondents gave the reply on 2/11/99 rejecting the applicant's case for compassionate appointment, the applicant has approached this Tribunal only on 11/9/2001 which is after more than a year and ten months. However, the applicant has filed an MP for condonation of delay explaining that being very poor, he could not approach the Tribunal in time.

8. None is present on behalf of applicant even on second call. None was present on behalf of the applicant on previous two occasions also i.e 7/2/2002 and 14/2/2002. I am therefore proceeding to dispose of this application in terms of Rule 15 of the CAT Procedure Rules.

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9. I have heard the learned counsel for the respondents. I find that the applicant not being qualified for the post of Helper was not considered for compassionate appointment. The compassionate appointment can be granted subject to vacancies available. Since there was no other vacancy but only the vacancy of Helper, the respondents were justified in not granting the appointment to the applicant as he does not possess the qualification of SSC as prescribed in the Recruitment Rules. I also agree with the respondents that the applicant's family cannot be considered to be in indigent circumstances as the applicant's mother is getting a pension of Rs.3,334/- which is above the poverty line figure as laid down by the Government.

10. In view of this position, in my considered view, the respondents cannot be faulted for not granting the compassionate appointment to the applicant. Accordingly, the OA is dismissed.

No costs.

Shanta J-

(SMT. SHANTA SHAstry)
MEMBER(A)

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11/19/02 (date) (order)
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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REVIEW PETITION NO:48/2002
IN ORIGINAL APPLICATION NO:696/2001

24TH DEC, 2002

CORAM:HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

Bharat Shankar Surat,
441, Jayti Kute Chawl, Dapodi,
Pune - 411 012. Applicant

V/s.

1. Union of India,
through the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.

2. Institute of Armament Technology,
through Director and Dean,
Girinagar,
Pune - 411 012. Respondents

ORDER

Per Smt. Shanta Shastry, Member(A)

This Review Petition is filed against the order dated 26/2/2002 in OA No.696/2001 by the applicant in the OA. The applicant's contention is that the orders were passed ex parte. Further another ground taken for review is that so far as Group "D" posts are concerned SSC was not the minimum qualification and it was not applicable to the petitioner as he was seeking appointment on compassionate grounds. Further retirement benefits which accrue to the legal heirs of the working employee cannot be considered to be a #income for the purpose of appointment on compassionate grounds.

The application is time barred. It has been filed on 29/8/2002. There is no MP filed for condonation of delay. In the review petition itself the applicant has tried to explain how the copy of the judgement and order were sent to the address of

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the Bar Association of the High Court and it was not brought to the notice of the advocate for the petitioner till 20/8/2002. Normally, the judgements are received at Pune address.

I have perused the grounds and do not see any reason to review the order dated 26/3/2002. All the facts were taken into consideration though the applicant was absent. Accordingly, the review petition is rejected.

Shanta F
(SMT. SHANTA SHAstry)
MEMBER(A)

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