

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT OA 63 of 20.9.0

Smt. Vinod Duggal.....Applicant(S)

Versus

U.O.9-.....Respondent(S)

INDEX SHEET

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8	CA	37 (51)

B.C. filed needed and destroy

Certified that the file is complete in all respects.

.....

Signature of S.O.

..... 11/6/12

Signature of Deal. Hand

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Deputy Registrar (I)

Registration No. 63 of 1969 (L)

APPLICANT(S)

Smt. V. Duggey

RESPONDENT(S)

UDC

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? Y
2. a) Is the application in the prescribed form ? Y
- b) Is the application in paper book form ? Y
- c) Have six complete sets of the application been filed ? Y
3. a) Is the appeal in time ? Y
- b) If not, by how many days it is beyond time ? Y
- c) Has sufficient cause for not making the application in time, been filed ? Y
4. Has the document of authorisation, Vakalatnama been filed ? Y
5. Is the application accompanied by B.D./Postal Order for Rs.50/- Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? Y
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ? Y
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? Y
- c) Are the documents referred to in (a) above neatly typed in double space ? Y
8. Has the index of documents been filed and paging done properly ? Y
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ? Y
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? NO

Mb - (2+2) 1 short

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Y
12. Are extra copies of the application with Annexures filed ?	Y
a) Identical with the Original ?	
b) Defective ?	
c) Wanting in Annexures	
Nos. _____ pages Nos. _____ ?	No
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	
14. Are the given address the registered address ?	Y
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Y
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	NA
17. Are the facts of the case mentioned in item no. 6 of the application ?	Y
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively ?	
d) Typed in double space on one side of the paper ?	
18. Have the particulars for interim order prayed for indicated with reasons ?	No
19. Whether all the remedies have been exhausted.	Y

dinesh/

OA 63/90 (L)

(23)

9.3.90 Mo Sittings till to 2.4.90 to
Admission

2/3

2.4.90 Hon K' Hach. J. re
Hon K. J. Ramas, Am

Mr V. S. Shukla for Applicant,
will file applicable rules in the
light of the impugned order (Am A-1)
and list for admission on 10-4-90

W.M.

Re

AM

Ve.

SC
w/c for the applicant
has not filed any
application in due course
ad d. 2.4.90

cm 203/90(L) filed
a. 2.4.90 to
c. of delay.

S.P.A

W
S.Y.

~~has not filed any application
in due course of time.~~

~~has been granted
to the applicant otherwise
order dated 20/3~~

~~The applicant has been
admitted to National offered
the petition for condoning the
delay. However, as it may
be cause of the cause, as
as condoning the delay. The
petition granted.~~

~~Admit.~~

~~Issue notice to the applicant
to file reply within 4 weeks (i.e.)
service of notice on the applicant.~~

~~Petition for delay on 20/3/90~~

AM

27.2.91

No sitting adj to 4.7.91.

Mr RD Riley
SPP

SD

4/7/91
D.R.

Both the parties are present today. Counsel for the applicant desire to file Rejoinder by 26/7/91. case is listed on 26/7/91.

26.7.91
D.R.

Both the parties are present. Counter and Rejoinder Affidavit have been filed. Now this case is to be listed before the Hon. Bench on 15/10/91 for final hearing.

15.10.91 No Sitting adj for 30.12.91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

O.A. NO. 63/90
T.A. NO.

199

DATE OF DECISION

Smt. Vinod Duggal

PETITIONER

Sri U.S. Shukla

Advocate for the Petitioner(s)

Versus

U.O.D. (Defect)

RESPONDENT

Dr. D. Chandra Advocate for the Respondent(s)

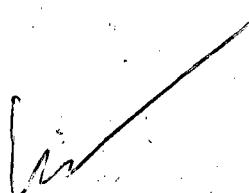
CORAM :

The Hon'ble Mr. Justice U.C. Srivastava, VC

The Hon'ble Mr. A.B. North, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

GHANSHYAM



THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

D.A. No. 63/90

Smt. Vinod Duggal ... Applicant

Vs.

Union of India & others ... Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, A.M.

(By. Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant has filed a claim petition under Section 19 of the Central Administrative Act, 1985 on 27.2.90 challenging the refusal of the respondents to provide suitable employment as her husband died in harness. Her husband was serving as a U.D.C. under the Officer Incharge, Record Office of Army Medical Core, Lucknow and being a civilian employee, he was paid out of Defence service estimates. He died on 29.6.87 after rendering 31 years of service leaving behind his widow, 3 daughters and one son. The applicant applied for a post of Peon on the ground of compassionate appointment as her husband died in harness. But by the letter dated 26.1.90 she was informed that in view of the limitations and restrictions imposed by the Government, her case for employment has been turned down and that is why the applicant has approached this Tribunal. The respondents in their reply have pointed out that the applicant could not get an appointment on the ground that she was over-aged and she was born earlier than 1947 and further her circumstances were better than many others and that is why preference was not given to her case. She

(P)

was paid a sum of Rs. 21,134/- under CE & GSI and a sum of Rs. 9924/- towards GPF and a sum of Rs. 820/- per month plus relief as admissible from time to time aspension and a sum of Rs. 50,020/- towards DCRG.

A reference ~~has~~ has also been made to Ministry of Personnel's Notification dated 30.6.87. In this behalf she was advised that the appoint^{ment} is to be given to the son, daughter or near relative who are left behind the family with a view to give immediate ~~relief~~ when there is no other member and in exceptional circumstances when the family is indigent and in great distress. The applicant ~~does not~~ ^{did} ~~feels that~~ ^{is} denied of the category and that is why the appointment was not given to her and the better persons those who are waiting though the chances are ~~bad~~ are waiting for turn to come. The contention has got to be accepted but the applicant's son has become major. Obviously, in case the appointment has not been given to the applicant and in case her son applies for the same, there appears to be no reason why he will not get the appointment in place of her father and ~~accordingly~~ ^{if} ~~if~~ an application comes ^{to} ~~the~~ ^{by} respondents, will give due attention to the same as far as possible and given an appointment ~~to her~~. With these observations, the application stands disposed of finally.


Member (A)


Vice Chairman

Lucknow
dt 26th May, 1992

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOWO.A. No. 63 OF 1990 (L)Date of Filing 27.2.90
Date of Receipt by Post.....

Smt. Vinod Duggal W/o Late V.S. Duggal

DepApplicant(U)

Vs.

Union of India & Others

Respondents

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Lucknow

Date 27.2.90.

S. Shunkla
Advocate
Counsel for the applicant
Signature of applicant

FOR USE IN TRIBUNAL'S OFFICE.

Date of filing

Or

Date of receipt by post

Registration number

Signature of Registrar

*Filed by me. noted for
9.3.90.*

*S. Shunkla,
N. S. Shunkla,
Advocate,
27.2.90*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

LUCKNOW

Central Administrative Tribunal

Circuit Bench Lucknow

Date of Filing 27.2.90

Date of Receipt by Post

S.A. NO. 63 OF 1990 (L)

Deputy Registrar(J)

Smt. Vinod Duggal

w/o Late Shri V. S. Duggal Applicant
MM/D1/357, LDA Colony, Kanpur Road
LUCKNOW-5

Vs.

1. Union of India through the Secretary Govt. of India, Ministry of Defence New Delhi-110 001	
2. The Director General Medical Services Army head-quarters Adjutant General's Branch Medical Directorate DHQ rO. New Delhi-110 011	Respondents
3. The Officer-in-charge Record Office AMC Lucknow-226 002	

1. DETAILS OF APPLICATION:

particulars of the order against which the application is made.

Record Office. Army Medical Corps. Lucknow letter
No. 702211/Rfs/VS D/LA/8 dated 21 Jan. 1988 (photo copy
enclosed as annexure A-1 to this application.)

विजय दुबे

R.A.Y

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which She wants redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The applicant declares that the application is not within the limitation period prescribed in Section 21 of the Administrative Tribunal's Act, 1985. However, a separate application for the condonation of delay is being submitted.

4. Facts of the Case:

(1) That the applicant's late husband Shri Vidya Sagar Duggal, ~~late~~ was serving as a permanent Upper Division Clerk in the office of the Officer-in-Charge Record Office, Army Medical Corps, Lucknow. He was a civilian employee paid out of Defence Service estimates.

(2) That the applicant's husband died of heart attack on 29.6.1987 after rendering 31 years of service, leaving behind the following dependent family members:-

(i) Widow	The applicant
(ii) Daughter	aged 17, 11 and 7 years
(iii) Son	aged 14 years.

(3) That the applicant reported to the Officer-in-charge, Record Office, AMC during the month of July, 1987 and requested for employment assistance in accordance with existing Govt. Orders, on extreme compassionate grounds. as there was none in the family, except the applicant, to earn a livelihood.

(4) That the applicant was asked to sign an application for the post of peon for which She was qualified and found fit, which She did. She was also medically

रामेश देवी

P.W.D.

examined by an Army Lady Medical Officer during the
/Sep 87 month of ~~January, 1989~~ ¹⁹⁸⁸ and was found physically fit for the
post of peon.

(5) That vacancy of a peon was available in Record Office, AMC, the appointing Authority of that post being the Officer-in-Charge, Record Office, AMC, himself, The applicant's case for employment was recommended by Respondent No. 3. to Respondent No. 2 for according necessary sanction for employment.

(6) That on or about 26 January, 1988 the applicant received a letter by registered post bearing No. 702211/Rts/ VSD/LA/8 dated 21 Jan. 1988 informing her that in view of the limitations and restrictions imposed by the Govt. her case for employment as a peon had been turned down by Respondent No. 2. A photo copy of the letter cited above is filed as Annexure A-1 to this application.

(7) That surprised and shocked due to receiving a negative reply from the Respondent No. 3 to her request for employment assistance, the applicant submitted a representation to the Respondent (Annexure No. A-2) No. 2 ~~on 14th March, 1988~~ ^{on 14th March, 1988} setting out her indigent and pitiable condition and requesting for re-consideration of her request for employment. No reply to this representation has been received to date. A photo copy of this application is filed as Annexure No. A-2 to this application.

(8) That having failed to get a reply to her representation dated ¹⁴ March, 1988 the applicant got a legal notice served on all the respondents. A photo copy of this legal notice dated 12.5.88 is filed as Annexure No. A-3 to this application.

(9) That during the month of Sept. 1989 having read in newspapers that the hon'ble Supreme Court while deciding a writ petition filed by one Mrs. Sushma Gosain had

प्रियोद दुपारा

observed that "there should not be any delay in providing employment on compassionate ground to mitigate the hardship due to death of the bread earner in the family", the applicant submitted yet another petition on 16-10-89.. to Respondent No. 2 to reconsider her case but to date no reply has been received. Copies of ~~copy of~~ application dated 16-10-89 & cutting from the Times of India dated 8.9.89 and ~~copy of~~ application dated ^{16.2} are filed as Annexures A-4 and A-5 respectively to this application.

(10) That the applicant respectfully submits that in accordance with Govt. of India, Ministry of Home Affairs, Deptt. of Personnel and Administrative Reform Office Memorandum No. 14034/1/77-Estt.(D) dated 23 May, 1978 laying down detailed procedure for appointing sons/ daughters/near relations of a Govt. Servant who dies in harness leaving his family in immediate need of assistance. Respondent No. 2 being the Head of Department was competent to accord sanction for the applicant's appointment as a peon on compassionate grounds without following the Employment Exchange procedure. The applicant is not only educationally qualified for the post ~~as~~ but also fulfills other conditions laid down in the Govt. letter.

A photo copy of Govt. of India, Ministry of Home Affairs OM No. 14034/1/77-Estt.(D)....dated 23 May, 1978 is annexed as annexure No. A-6 to this application.

(11) That the order passed by Respondent No.2 on the applicant's application for employment (Annexure No. A-1) is not a speaking order in as much as it does not specifically state as to what restrictions and limitations prevent him from offering the post of a peon to the applicant. The order therefore violates the principles of natural justice.

.....5/-

विजय दुर्गापाल

(12) That the applicant has also been discriminated against in the matter of employment because in the past a number of persons similarly placed as the applicant have been appointed on compassionate grounds in the subordinate offices of the Govt. of India under the administrative Control of Respondents No.1 and 2. Such a discrimination is violative of article 16 of the Constitution of India.

/14 and

5. Grounds for relief with legal provisions:

(i) Because the Respondents have arbitrarily rejected the applicant's request for employment as a ~~peon~~ ^Q peon in accordance with Govt. orders contained in Ministry of Home Affairs OM No. 14034/4/77-Asstt(D) dated 23 May, 1988(Annexure A-6).

(ii) Because the order of rejection of the applicant's request for employment as a peon passed by Respondent No.2 (Annexure-A-1) is not a speaking order and thus violates the principles of natural justice.

(iii) Because the applicant is qualified and physically fit and fulfills the conditions laid down for employment in Govt. Orders(Annexure No.A-6).

(iv) Because the Respondent No.2 has not considered the applicants application dated 14-3-88 and 16-10-89 (Annexure A-2 and A-4) wherein a reference to Hon'ble Supreme Court's recent directions in regard to compassionate appointments were referred to.

(v) Because the applicant has been discriminated against in the matter of employment assistance in Violation of Article 16 of the Constitution of India.

/14 and

.....6/-

रामेश्वर मुंडे

6. Details of remedies exhausted:

The applicant declares that she has availed of all the remedies available to her under the relevant service Rules.

Sl. No.	Details of Representation	Outcome Annexure
1.	Application dated June, 1987 (Copy not available)	Rejected vide Annexure A-1
2.	Application dated March, 1988 (Annexure A-2)	No reply received.
3.	Legal notice serviced on 12.5.88 (Annexure A-3)	No reply received.
4.	Application dated sent to Respondent No.2 (Annexure A-5)	No reply received

7. Matters not previously filed or pending with any other Court:

The applicant further declares that she had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought:-

In view of the facts mentioned in para 4 above, the applicant prays for the following reliefs:-

(a) That the Hon'ble Tribunal be pleased to issue a writ, ~~ex~~ ~~मान्यता दिलासाधारित~~, order or direction directing Respondent Nos. 1 and 2 to appoint the applicant as a peon in the office of Respondent No. 3 or in any other local office under the administrative control of Respondent No. 2 from the date of submission of her application i.e., July, 1987, with all consequential benefits.

(b) To award the cost of the suit to the applicant

9. Interim Order, if any, prayed for

NIL

10. Not applicable

11. particulars of ~~sent~~^{Post} Draft/Postal Order filed in respect of the application fee:

(a) Postal Order No. DD4 824808
(b) Date of postal Order 10-2-1990
(c) Amount Rs. 50.00
(d) Issuing Post Office Lucknow G.P.O.

12. List of enclosures:

(a) Application

(b) Annexure A-1 to A-6

(c) Postal Order No. DD4 824808 dated 10-2-90

(d) Name of Post Office at which payable. ALLAHABAD G.P.O.

विनोद द्विघाट

Applicant

Contd. page 8

V E R I F I C A T I O N

1. Smt. Vinod Duggal, w/o. late Shri Vidya Sagar Duggal, ex. UDC of Record Office A.M.C., resident of MM/D-1/357, LDA Colony, Kanpur Road, Lucknow do hereby verify that the contents of paras 4(1) to (9) are true to my personal knowledge and those of paras 1 to 3, 4(1) to (12) and 5 to 8 are believed to be true on legal advice and that I have not suppressed any material facts.

विनोद दुग्गल

Signature of Applicant

DATE: FEBRUARY 27, 1990

PLACE: LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. _____ OF 1990

Smt. Vinod Duggal W/o Late VS Duggal

Application

Vs.

Union of India & Others

Respondents

C O P Y

Mil Tele : 757

RegisteredSona Chikitsa Corps Abt. 1102M
Army Medical Corps. Records
Lucknow - 226002

702211/Rts/VSD/LA/8

21 Jan 88

Smt Vinod Duggal
W/O Late Shri VS Duggal
L-177 Sector 8
LDA Colony, Hind Nagar,
LucknowEMPLOYMENT ASSISTANCE

1. Refer to your application dated Jul 87.
2. The case for your employment as per on Compensation grounds relaxing the upper age limit and the employment procedure, was submitted to higher authorities for consideration. It has been intimated by Army Headquarters, that in view of the limitations and restrictions imposed by the Government, it is not possible to sponsor your case for employment in relaxation of the Employment Exchange procedure.
3. You are, therefore, advised to seek the assistance of Employment Exchange in finding the employment.

Sd/- x x x

(G P Arya)

Lieut

Adm Officer

for Officer-in-Charge

Mr.
S. Chukla
Advocate
20/2/90

* gm *

बुद्धिमत्त श्रीमान्

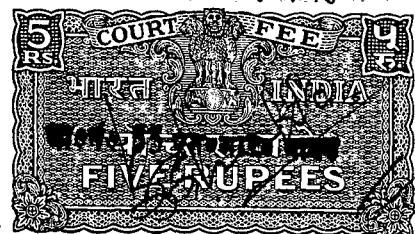
[बादी अपीलान्ट]

श्री प्रतिवादी [रेस्पाइन्ट]

Central Adminisrative Tribunal
का वकालतनामा
Court Bench Lucknow

महोदय

Smt. Vinod Singh



बादी (अपीलान्ट)

Union of India + Others
बनाम

प्रतिवादी (रेस्पाइन्ट)

Ch. No. 63 अ 1998 (L)

नं० मुकद्दमा

सन्

पेशी की ताता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील

महोदय

एडवोकेट

नाम अदालत	नं०	वकील
मुकद्दमा		
नाम फरमान		

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंतर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दाबा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी वर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Accepted
Shukt. Advt. 27/9/90

साक्षी (गवाह)

दिनांक

स्वीकृत

प्रियोदय दुर्गाहा
हस्ताक्षर (Smt. Vinod Dutt)

साक्षी (गवाह) Jagdish Kishan

27/9/90

महीना सन् १६ ई०

Q. No. Mm/01/357

Lata Colony

Kanpur, Uttar Pradesh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

A18

O.A. No. 63 OF 1990 (L)

Smt. Vinod Duggal w/o late V.S. Duggal

Applicant

Vs.

Union of India and others

Respondents

INDEX

Ser No. Description of documents relied upon.

Page No.(s)

COMPILATION No. 1

1. Application under Sec 19

1 to 8

2. Annexure A-1 - Copy of Record Office Lucknow letter No. 702211/Rts/VSD/LA/8 dated 21 Jan 1988 - Impugned.

9

COMPILATION No. 2

3. Annexure A-2 - Copy of applicant's application dated 24 Mar 1988 addressed to the DGMS New Delhi

10 to 11

4. Annexure A-3 - Copy of Legal Notice dated 12 May 1988 served on the Respondents

12 to 18

5. Annexure A-4 - Copy of applicant's application dated 16-10-89 addressed to Respondent No. 2

19 to 20

6. Annexure A-5 - Copy of paper cutting from the Times of India dated 8-9-89 containing news item in regard to observations of Hon'ble Supreme Court in a case of employment on compensation grounds

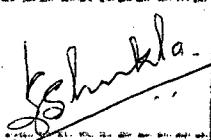
21

7. Annexure A-6 - Copy of Govt of India, Ministry of Home Affairs OM No. 14034/1/77-Estt(D) dated 23 May 1978

22 to 25

Lucknow

Date 27-2-90.


 Advocate
 Counsel for
 the
 applicant
 Signature of Applicant.
FOR USE IN TRIBUNAL'S OFFICE.

Date of filing.

or

Date of receipt by post.

Registration Number -

Signature of Registrar

A19

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 63/90 OF 1990 (L)

Smt. Vinod Duggal Vs. Union of India & Others
W/o Late VS DuggalFrom: Smt VINOD DUGGAL,
W/o Late Shri VS Duggal,
L-177 Sector E,
LDA Colony, Hind Nagar,
Lucknow.

To,

The Director General of Medical Services,
Army Head quarters,
DHQ PO New Delhi.

(Through AMC Records, Lucknow)

SUB.: EMPLOYMENT ASSISTANCE TO THE DEPENDENT OF
DECEASED GOVT SERVANT.

Sir,

With due respect I beg to lay down the following few lines for your sympathetic consideration and favourable orders please:-

1. That my husband late Shri VS Duggal was employed in AMC Records, Lucknow. After having served for about 31 years in your department, he expired on 29th Jun 87 in harness leaving the family consisting of following members in undigent circumstances.

Widow -	1
Daughters	3 (17 yrs, 12 yrs & 8 yrs)
Son	1. (14 years)

2. Our Government have been kind enough to make provisions for employment assistance to sons/daughters/ near relative of deceased Govt servant who dies in harness while in service.

3. Under the above provisions I applied for the post of Peon in AMC Records. I know during Jul 87. I was directed to Medical Officer Family Welfare Centre of AMC Centre and School, Lucknow for medical examination where I was declared fit and fitness certificate dated 16 Sep 87 issued by the Medical Officer was submitted in AMC Records Lucknow. My case was submitted to your Head quarters for approval. since then I have approached AMC Records, Lucknow for a number of times and I was always informed that my case is under consideration at Army Head quarters and I will be offered appointment on receipt of approval from Army Headquarters.

4. Sir, now I have received a letter No 702211/Rts/VSD/LA/8 dated 21 Jan 88 from AMC Records, Lucknow.

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CTC
S. Chhikla
Advocate

- 2 -

(Copy attached) in which I have been informed that in view of the limitations and restrictions imposed by the Govt, it is not possible to sponsor my case for employment in relaxation of the employment exchange procedure.

5. Sir, I am really surprised to note that inspite of the clear Govt orders on the subject my case has not been considered. In this connection it is submitted that my husband died while in service in harness leaving us in indegent circumstances and there is no earning member in the family. With meagre pension it is very difficult to pull on during these days of famine. Sir In the past your HQ has offered appointment in a semilar Case of AMC Records I don't understand why restrictions have been imposed in my case. I have come to know that there are vacancies of Peon lying vacant in AMC Records Lucknow. It is therefore request that my case may kindly be reconsidered favourable and I may be offeed employment assistance at the earliest for which my children shall ever remain grateful.

Thanking you,

Your's faithfully,

Date: 14 Mar88

(Smt Vinod Duggal)
W/o Late Sri VS Duggal.

C.C.
S. Shukla
Advocati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW
O.A. No. 63 of 1990 (L)
Smt. Vinod Duggal Vs Union of India & Others
PARAS NATH SINGH, COPY. PHONE NO. 54638.

M.A., LL.B.
ADVOCATE,
HIGH COURT AND SERVICES TRIBUNAL. RESIDENCE : E-3086, RAJAJIPURAM,
AVAS VIKAS COLONY, LUCKNOW.

DATED : MAY, 1988.

LEGAL NOTICE

Smt. Vinod Duggal, w/o Late Shri V.S. Duggal,
Residence : ~~P-17/4~~ ^(S5) Sector E, L.D.A. Colony,
Hind Nagar, Lucknow.

....APPLICANT

VERSUS

1. Union of India, through Secy., ~~Revered~~ ^{Defence}
~~Government~~, New Delhi.
2. The Director General of Medical Services,
Army Head Quarters, DHQ PO New Delhi.
3. The Officer I/c, Sena Chikitsa Corps Abhilekh,
Army Medical Corps Records, Lucknow.

...Opposite Parties.

The above applicant Vinod Duggal is my client and instructed me to give following notice:-

1. That my client's husband late Shri V.S. Duggal was employed in A.M.C. Records, Lucknow, &c. After having served for about 31 years in your department, he expired on 29th June 1987 in harness leaving the family consisting of following members in undigested circumstances.

Widow -1

Daughters -3 (17 yrs, 12 yrs and 8 yrs.)

Son -1 (14 Years).

CTC

Shankla

Advocate

Contd. 13

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2. Our Government have been kind enough to make provisions for employment assistance to sons/daughters/near relative of deceased Govt. servant who dies in harness while in service.

3. Under the above provisions my client's applied for the post of Peon in AMC records, Lucknow during July 1987. My client's was directed to Medical Officer Family Welfare Centre of A.M.C. Centre and School, Lucknow for Medical examination where my client's declared fit and fitness certificate dated 16 Sept. 1987 issued by the Medical Officer was submitted in A.M.C. Records Lucknow and case was submitted to your Head Quarters for approval. Since then my client's have approached A.M.C. Records, Lucknow for a number of times and was always informed that my client's case is under consideration at Army Head Quarters and will be offered appointment on receipt of approval from Army Headquarters.

4. That My Client's have received a letter No. 702211/Rts/VSD/LA/8, dated 21 Jan. 1988 from A.M.C. Records, Lucknow, in which informed that in view of the limitations and restrictions imposed by the Govt. it is not possible to sponsor my client's case for employment in relaxation of the employment exchange procedure.

5. That the similar case is decided on 26 Feb. 1988 by Hon'ble Central Administrative Tribunals

C.T.C.
G. Shukla
Advocate

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Allahabad Bench S. Jaheer Hasan (V.C.) and D.S. Misra (A.M.), Smt. Gayatri Devi and another versus Union of India and others. In this case Hon'ble Administrative Tribunals directed to concerning party to give him a suitable job on compassionate ground keeping in view his eligibility in case there is a vacancy or whenever a vacancy occurs. In case he is found over age the power of relaxation of upper age limit can be exercised, with these directions the application is disposed of with costs on parties. The copy of said judgment is enclosed herewith this ~~appendix~~ notice.

6. That the applicant is entitled her employment on the post of "PEON" from the date main application is given by the applicant. If on the basis of facts given in this notice employment is not given, then applicant is bound to seek legal remedy in the legal court.

Paras Nath Singh
(PARAS NATH SINGH)

ADVOCATE, (S/101)

*Ct.
Lalchand
Advocate
Counsel for the applicant*

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(1980 UPLBEC /TRI/ 52)

S. ZAHEER HASAN (V.C.) AND D.S. MISRA (A.M.)

Registration (D.A.) No. 135 of 1988, decided on
February 26, 1988.Smt. Gayatri Devi and another ...Applicants
Versus

Union of India and others ...Respondents

Service-Appointment on compassionate ground-Guide

Lines- In the instant case, son of deceased employee
was directed to be given appointment.

Appointment of a son of the deceased employee
can be made on compassionate ground if the
employee died in harness while in service before
retirement. Cases of appointment on compassionate
grounds should be viewed sympathetically. When
offering appointment on compassionate grounds to
widow, son, daughter, etc., it need not be
checked up whether another son or daughter is
already working. In such cases regards should
be had to the number of dependants, the assets
and liabilities left by the deceased and the
income of the earning members as also their liability.
(para 4)

In the instant case, after death of A.P.
Srivastava, who was Inspector Central Excise,
while he was in service, the family pension to his
widow and a meagre income of Rs. 1,500 per annum
from agricultural land cannot be considered as
sufficient to maintain a family consisting of three
unmarried daughters and two sons apart from the
widow with no help from the other two sons, who
are working as L.O.Cs in Bhopal. (para 4)

...2

C. Shukla (P.T.O.)
Advocate

ALS

...3...

they are living separately from her and are not maintaining her, nor they are in a position to maintain her and the other members of the family residing with her. Under these circumstances she moved an application for appointment of a son viz Vimal Kumar Srivastava applicant No. 2 aged about 24 years, on compassionate ground. This son is a graduate. The prayer for appointment on compassionate ground was rejected, hence the present application.

3. The defence is that the applicant Nos. 1's two sons are already employed and apart from family pension she has an income of Rs. 1,500 per annum from agricultural land, so under the circumstances the prayer was rightly rejected.

4. Appointment of a son of the deceased employee can be made on compassionate ground if the employee died in harness while in service before retirement.

Cases of appointment on compassionate grounds should be viewed sympathetically. When offering appointment on compassionate grounds to a widow, son, daughter, etc. it need not be checked up whether another son or daughter is already working. The two sons, viz. Mahendra Kumar and Surendra Kumar are working as L.D.Cs. in Bhopal (M.P.) Mahendra Kumar is 32 years old and has wife and children. He is living separately from his other brother, viz. Surendra Kumar, who is a temporary L.D.C. on fixed salary in Veterinary Department at Bhopal. Being L.D.Cs. they would find it difficult to pull on in these hard days in Bhopal and we do not think they are in a position to maintain Smt. Gayatri Devi and five children living within her. There is absolutely

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C.C.
B. Shukla
Advocate

(P.T.O.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

O.A. No. 63 OF 1990 (L)

Smt. Vinod Duggal W/o Late VS Duggal

Applicant

Vs.

Union of India & Others

Respondents.

REGD. A. D.

FROM :

Smt. Vinod Duggal
W/o Late Sri UDC VS Duggal
H. No. MM/D1/357
LDA Colony, Kanpur Road
Sector D-1. Lucknow-226 005

Date :

To :

The Director General
Medical Services, DMS 3(B)
Army Headquarter
Adjutant Generals Branch
Medical Directorate
DHQ PO New Delhi-110 011

Respected Sir,

Most respectfully I beg to submit as under :

- 1- That I am the unfortunate widow of Late UDC VS Duggal of Record Office AMC.
- 2- That late UDC VS Duggal after rendering 31 years meritorious service died on 29 June 87. When only 7/8 years were left. for his normal retirement leaving behind the undermentioned family members :-

(a) Smt. Vinod Duggal (applicant)	- widow
(b) Km. Jyoti	- daughter, aged 17 yrs
(c) Mr. Deepak	- son, aged 15 yrs
(d) Km. Kanohan	- daughter, aged 11 yrs
(e) Km. Renu	- -do-, aged 7 yrs

- 3- That all the above named children are minor and school going and I am not in a position to incur any expense on their school fee etc out of the meagre family pension that I am getting from the Govt. As a matter of fact the amount of family pension i.e. Rs.820/- PM is not even form making both ends to meet.

*C.T.
S. Shukla
Advocate..2*

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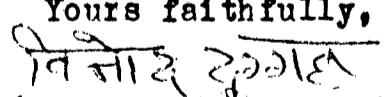
4- That during July 87 I had applied for the post of peon in Record office, AMC extreme compassionate grounds without following the Employment Exchange procedure. My case was submitted to your office by Record Office AMC.

5- That Record Office AMC Lucknow informed me under their letter No.702211/Rts/VSD/LA/8 dt 21 Jan 88 that "It has been intimated by Army HQ that in view of the limitations and restrictions imposed by the Govt. it is not possible to sponsor your case for employment in relaxation of employment exchange procedure". A copy of record office AMC Lucknow letter dt 21/1/88 is enclosed for perusal.

6- That I have read in the newspaper that in a recent case the Hon'ble Supreme Court have decided that the dependent of Govt servants who die in harness while in service should be given employment at the earliest. I am ~~at~~ enclosing a paper cutting of Time Of India News paper dt 8.9.89.

7- Sir, since I am fully qualified for the post of PEON, have already been medically examined by Record Office AMC and found fit I humbly request you that I may kindly be offered the post of a PEON in Record Office AMC, or AMC Centre and School or in any other Defence/Army establishment, as per Govt.orders contained in CPR 45/79.

8- For the favour I shall ever remain grateful to you.

Yours faithfully,

 (Smt. VINOD DUGGAL)

Lucknow

Dt. 16-10-1989.

cc: Record Office, AMC, Lucknow - for information and such action as ~~may be~~ may be deemed necessary.

C.T.C.
 Shukla
 Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOWO.A. No. 63 OF 1990 (L)

Smt. Vinod Duggal W/o Late VS Duggal

Applicant

Vs.

Union of India & Others

Respondents

Bihar non-gazetted
staff stir intensifies

The Times of India News Service

PATNA, September 7: The strike by non-gazetted employees and teachers gained momentum today with a large section of the class IV employees and almost all primary and secondary teachers abstaining from duty.

Many more employees, who had not joined the strike yesterday, kept away from offices while, according to reports reaching here from different parts of the state, work in several government departments and offices were crippled.

Even as teachers, employees and Promoted Officers' Co-ordination Committee reiterated its resolve not to have negotiations with anyone except the cabinet sub-committee, an official team, led by the chief secretary, Mr A.U. Sarma, began talks with the Yogendra Prasad Singh faction of the Bihar State Non-Gazetted Employees' Federation.

Meanwhile, the strike experienced the first instance of employee-police confrontation near the new secretariat this morning. The striking employees had assembled near the secretariat gate for a meeting when they had arguments with the CRPF jawans deployed there. However, nothing untoward happened due to timely intervention of senior officials.

SC for quick disposal
of dependents' claims

The Times of India News Service

NEW DELHI, September 7: 1985 dismissed Mrs Gosain's petition while relying on the affidavit filed by the DGBR which inter alia stated that the petitioner could not give the name of a male relative to whom employment could be given.

The DGBR had told the court that the appointment of ladies was prohibited in the department. Mrs Gosain had two minor children and she herself has passed the tests for appointment.

When she failed to get any response from the DGBR, Mrs Gosain approached the high court. Later she moved the Supreme Court challenging the high court's order.

Expressing their disapproval of the way in which the DGBR had behaved in this case, the judges said Mrs Gosain had passed the test in 1983 and was not given employment while a ban on employment of ladies was imposed two-years later in 1985. There was absolutely no reason to make her wait till 1985 when the ban on appointment of ladies was imposed, the judges said while reprimanding the DGBR. The denial of appointment was patently arbitrary and cannot be supported in any view of the matter, they added.

लखनऊ प्रोड्यूसर्स कोआपरेटिव

मिलक यूनियन लि.

दूष के दार्दों में भारी कमी

दिनांक १ सितम्बर, १९८९ से नई दरें प्रभावी

	पुतनी दरें	नई दरें
१- स्टैन्डर्ड पाश्वराइज्ड दूष प्रति ली.	५.५० रु.	५.५० रु.
,, „ „ प्रति १/२ ली. पैक	३.२५ रु.	२.७५ रु.
२- टोच पाश्वराइज्ड दूष प्रति ली.	६.०० रु.	५.०० रु.
,, „ „ प्रति १/२ ली. पैक	३.०० रु.	२.४० रु.

OPERATION
FLOOD

FLOOD

JD-BJP alliance in
Gujarat unlikely

AHMEDABAD, September 7 (UNI): Prospects of electoral understanding between the state units of the Janata Dal and the Bhartiya Janata Party (BJP) have been jeopardised following a rift between the Dal President, Mr Chimanbhai Patel, and the party secretary-general, Mr Pravinsinh Jadeja.

Mr Jadeja and his supporters have taken strong exception to the "dictatorial style of functioning" of Mr Patel and have written a letter to the Party President, Mr V.P. Singh, seeking his immediate intervention.

CTC

Shrikant

Advocates

लखनऊ प्रोड्यूसर्स
कोआपरेटिव मिलक
यूनियन लि.

T.O. I 8/9/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 63 OF 1990 (L)

Smt. Vinod Duggal W/o Late VS Duggal

Applicant

Vs.

Union of India & Others

Respondents

May 79

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APPENDIX 'A' TO CPRO 45/79

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Copy of the Ministry of Home Affairs, Department of Personnel & AR Office Memorandum No. 14034/1/77-Estt(D) dated 23 May 78.

COMPASSIONATE APPOINTMENTS OF SON/DAUGHTER/NEAR RELATIVE OF DECEASED GOVERNMENT SERVANT—CONSOLIDATED INSTRUCTIONS

The undersigned is directed to say that the scheme of compassionate appointments has been reviewed and in supersession of earlier OMs on the subject the following consolidated instructions are circulated for information and compliance:—

1. General Scheme

2. Ministries/Departments are competent to appoint, in relaxation of the procedure of recruitment through the Staff Selection Commission or Employment Exchange, the son/daughter/near relative of a Government servant who dies in harness, leaving his family in immediate need of assistance, in the event of there being no other earning member in the family, to a post of Lower Division Clerk or any other Group C/post of comparable rank or Group D post, after the proposal for such appointment has been approved by the Joint Secretary Incharge of the Administration or Secretary in the Ministry/Department concerned. In attached and Subordinate Offices the power of compassionate appointment may be exercised by the Head of the Department under Supplementary Rule No. 2(10).

2. Quota of Posts

3. Reservation upto 3% of posts falling vacant in a calendar year in a particular cadre can be made for making appointments on compassionate grounds. The Departments will keep the Staff Selection Commission informed of the number of vacancies reserved in a year and will also report all vacancies excluding 3% of such vacancies to the Commission who will continue to make arrangements to sponsor qualified candidates against these vacancies. The Department may make their own arrangement to fill up 3% of the vacancies by appointment of persons on compassionate grounds. For computation of vacancies there shall be a block of two calendar years beginning with the calendar year 1978. If there are unutilised vacancies at the end of the block of two years, these unutilised vacancies would lapse at the end of the block. If however, there is an excess of applicants over the reserved vacancies in a particular block of

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Advocate

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May 1979

years, such cases may be considered in the subsequent block of years and appointments made later. The limit of 3% is subject to the condition that the overall percentage of non-competitive appointments including reservations of posts in favour of Scheduled Castes and Scheduled Tribes, physically handicapped persons etc. does not exceed 50% of the vacancies in any cadre in a year.

3. Eligibility

4. Ministries/Departments are aware that applicants for compassionate appointment should be appointed only if they are eligible and suitable for the posts in all respects under the provisions of the Recruitment Rules. Cases where the condition of the family as very hard and appointment can be made only by relaxation of educational qualifications, may continue to be referred to this Department as hitherto. Such relaxation in educational qualification is allowed only on a temporary basis for a period of one to two years within which the dependent has to acquire the prescribed qualification and if he fails to do, his services are liable to be terminated. Where the Ministries/Departments deem it imperative in the context of the impecunious condition of the family they may relax the age limit in accordance with the general orders No. 4/1/55-RPS dated 12-2-1955.

4. Where the death took place long ago

5. It will no longer be necessary for Department to refer to Department of Personnel and Administrative Reforms cases of compassionate appointments of the wards of Government servants merely because a long time, say 5 years has lapsed since the death of the Government servant. The Ministries/Departments may consider such cases themselves on merit but while admitting claims of such application, Ministries/Departments may please keep in view the important fact that the concept of the compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. When several years have passed after the death of the Government servant, it would appear prima facie that the family has been able to manage somehow all these years and had some means of subsistence. Since the percentage of posts earmarked for this purpose is restricted, Ministries/Departments will no doubt deal with such requests with a great deal of circumspection to give due allocation to more deserving cases, if any. The decision in such of belated appointments may be taken after the Secretary has approved of the proposal.

CT
B. Shukla
Advocate

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May 1979

prudent, nor in consonance with the spirit of these orders, if the quota of posts is exhausted in early parts of the block of two years and thereafter more deserving requests have to be turned down for want of a vacancy. The effort should be to spread the utilisation of vacancies to the extent possible over the entire block period. It is also necessary to ensure that more deserving cases in subordinate and field offices are not ignored and less deserving cases of Headquarters given preference because of proximity to decision taking level.

8. Appointment to the posts of Peon etc.

9. In view of the existing ban of filling up of posts of Peons and Jamadars, as far as possible, compassionate appointments should be made only against Group 'D' posts on the filling up of which there is no ban at present. Where however, there are no vacancies in such posts, compassionate appointments could be made against posts of Peons/Messengers, provided that regular vacancies exist and persons concerned are eligible and suitable for the job.

9. Deaths during re-employment or extention in services

It is hereby clarified that a son/daughter/near relative of a Government servant who dies during the period of extension in service or re-employment, are not eligible for the concession under the scheme of compassionate appointments.

10. Request for change in post

Once a person has accepted a compassionate appointment to a particular post, the set of circumstances which led to his initial appointment, should be deemed to have ceased to exist and thereafter the person who has accepted compassionate appointment in a particular post should strive in his career like his colleagues for future advancement and claims for appointment to higher post on consideration of compassion should invariably be rejected.

11. Recruitment Rules

Ministries/Departments may please take steps to amend Recruitment Rules in order to make specific provision in the Rules for ear-marking upto 3% of the posts in a cadre for making compassionate appointments under the Scheme.

The general proforma may continue to be used by Ministries/Departments for processing the cases of compassionate appointments.

Hindi version will be despatched separately.

C T C
J Sankar
Ad

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5. When there is an earning member

6. In deserving cases even where there is an earning member in the family, a son/daughter/near relative of a Government servant, who dies in harness leaving his family in indigent circumstances, may be considered for appointment to the post without reference to the Employment Exchange. All such appointments are however to be made with the prior approval of the Secretary of the Ministry/Department concerned, who before approving the appointment, satisfies himself that the grant of the concession is justified, having regard to the number of dependents left by the deceased Government servant, the assets and liabilities left by him, the income of the earning member as also his liabilities. It is however observed that in the past some cases were referred to this Department wherein it was stated that an earning son or daughter in the family was either unwilling to look after, or neglecting the rest of the family including the mother, brothers and sisters etc. and as such the case for the compassionate appointment of another son/daughter was being sponsored. In this light, it is necessary to clarify that notwithstanding the fact that it is the endeavour of Government to provide employment for the son/daughter of a Government servant who dies in harness leaving his family in indigent circumstances, the primary source of succour to the members of the family of the deceased employee must still be the next of kin who are earning. If the next of kin i.e. son/unmarried daughter chooses to neglect the family, the government is not obliged to come to rescue of such families. It has to be remembered that if the government were to provide compassionate appointment even in such cases, any number of cases may come up of earning members in a family feigning to show neglect of the family with a view to securing employment for another member of the family.

6. Government servants retired on medical grounds

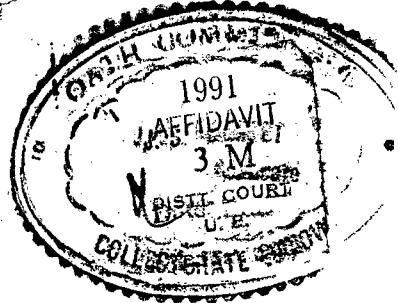
7. In exceptional cases when a Department is satisfied that the condition of the family is indigent and in great distress, the benefit of compassionate appointment may be extended to the employment of son/daughter/near relative of Government servant retired on medical grounds under Rule 38 of the Central Civil Services (Pension Rules) 1972 or corresponding provision in the Central Civil Regulations.

7. Selective approach

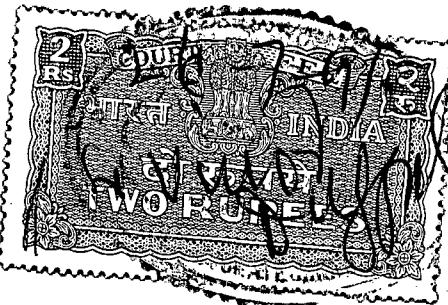
8. It is also necessary to emphasize here that since the quota for such appointments is very limited and in the context of the large number of competing demands, Ministries/Departments may please adopt a highly selective approach, and will neither be

C.T.
K. Shinde
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.



REJOINDER AFFIDAVIT



In

O.A. No. 63 of 1990 (L)

Smt. Vinod Duggal Applicant

Versus

Union of India & Others Respondents

I, Vinod Duggal, aged about 45 years Widow of Late Vidya Sagar Duggal, resident of Quarter No. MM/D1/357, L.D.A. Colony Kanpur Road, Lucknow do hereby solemnly affirm and state on oath as under:

1. That the deponent is the applicant in the above mentioned suit. She has fully understood the contents of the Counter Affidavit filed on behalf of Respondent No. 3. She is well conversant with the facts of the case and the facts deposed hereinafter.
2. That the contents of para 1 to 9 do not call for any comments.
3. That the contents of para 10 are admitted to the extent that letter No. 702211/Rtg/LA/16 dated 5 May 1988 issued by Respondent No. 3 was received by the deponent. Rest of the contents are denied for want of knowledge.
*Filed today
26/7/91*
4. That the contents of paras 11 and 12 need no comments.

विनोद दुग्गल

5. That the contents of para 13 are not admitted and in reply it is stated that it is not the intention of Govt letter dated 30-6-1987 a copy of which has been filed as Annexure No. R-2 to the Counter Affidavit, that sons/daughters/near relatives of the deceased Govt servants should be treated as ineligible for employment assistance on compassionate grounds merely because of their being overage on the date of death of the Govt servant. Further, in the majority of death cases the widow of a Govt servant is overage. On the contrary, para 6 of the Govt letter ibid which is reproduced below lays down relaxations in regard to compassionate appointments:

"6. Relaxation:

Compassionate appointments are made in relaxation of the following:

- (a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or Employment Exchange.
- (b) Age limit wherever necessary. The relaxation of lower age limit should not be below 18 years of age.
- (c) Educational qualifications to the extent stated in para 4 above.
- (d) Clearance from Surplus Cell of this Department/ Directorate General of Employment and Training."

5 In this connection the deponent also respectfully submits that as per Annexure No. R-1 to the Counter Affidavit, her request for employment assistance was rejected by Respondent No. 2 and no Counter Affidavit has been filed by him nor has he authorised Respondent No. 3 to file a Counter on his behalf. **निर्वाचन द्वारा**

6. That in reply to the contents of para 14 it is stated that in almost every case of death of a Govt servant his widow/dependent children get the financial benefits such as Family Pension, Gratuity, Provident Fund, Group Insurance and so on. If these benefits were to be considered as the sole criteria for the eligibility of a widow/dependent majority of them would be ineligible for employment assistance on/compassionate grounds. It is submitted that the contents of para 9(d) of the Govt letter dated 30-6-87 a copy of which has been filed as QAnnexure No. R-2 to the Counter Affidavit are not mandatory requirements but are in the nature of guidelines only. The deponent is a widow with 3 minor daughters and 1 minor son. As such, the financial assistance received by her is barely sufficient for her subsistence. In so far as the question of age limit is concerned, ~~the~~ submissions made in para 5 ante may be referred to. Incidentally, the deponent also submits that the amount of Family Pension which has been shown as Rs. 820.00 pm in para 14 of the Counter Affidavit would stand reduced to 375.00 pm on the date her late husband would have attained the age of 58 years.

7. That the contents of para 15 are not admitted and those of para 12 of the Claim Petition are re-affirmed. It is further submitted that it is the ~~app~~ deponent who has been discriminated against as stated in para 12 of the Claim Petition.

8. That the contents of para 16 are not admitted and various grounds for relief as stated on page 5 of the Claim Petition are re-affirmed.

9. That the contents of para 17 need no comments.

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10. That in reply to the contents of para 18 it is submitted that in view of the foregoing submissions the relief sought in para 8 of the Claim Petition is liable to be granted.

11. That the contents of para 19 need no comments.

Lucknow

26 Jul 91.

पीरोट्टुराम

Deponent

VERIFICATION.

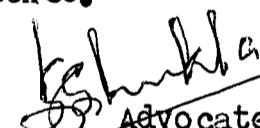
I, the above named deponent do hereby verify that the contents of para 1 of this Affidavit are true to my personal knowledge and those of paras 2 to 11 are believed to be true as per legal advice. No material fact has been concealed and no part of it is false.



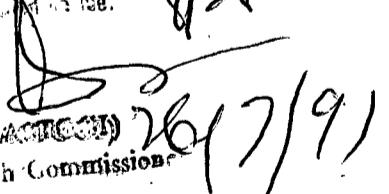
पीरोट्टुराम

Deponent.

I identify the deponent who is personally known to me and has signed in my presence.


Advocate
(U.S. Shukla)

26/7/91
U.S. Shukla
Advocate
I have satisfied myself by examining the deponent
that he is unknown to the contents of his affidavit
which has been read out and explained to me.
Fees Charged Rs. 1/- 1-50


(U.S. Shukla) 26/7/91
Advocate, Oath Commissioner

On behalf of

AIS

In the Central Administrative Tribunal at Allahabad,
Circuit Bench, Lucknow.

M. P. No. 21/91 (L)
Misc. Application No. _____ of 1990

on behalf Respondents.

In

Case No. 6.A.62 of 1990

Smt. Vinesh Duggal Applicant.
versus.

Union of India & Others..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

R filed today
R
9/11/91
WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated :

(Dr. Dinesh Chandra)
Counsel for the Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

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COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS 1 TO 3.

In

O.A.No.63 of 1990.

Smt. Vinod Duggal.....Applicant.

Versus

Union of India & Others..... Respondents.

I, Lieut. T.S.Ratnakar, aged about 35 years son of Shri Late
.....Ratnakar....., Administrative Officer in Army
Medical Corps Records, Lucknow, do hereby solemnly affirm and state
as under:-

1. That the deponent has read the application filed by Smt. Vinod Duggal and has understood the contents thereof.
2. That the deponent is swearing this Counter-Affidavit on behalf of respondents No. 1 to 3 and is well conversant with the facts of the case deposed hereinafter.
3. That the contents of para 1 to 2 of the application need no comments.
4. That in reply to para 3 of the application it is stated that the application filed by Smt. Vinod Duggal was barred by limitation under Section 21 of the Administrative Tribunal Act, 1985 but on an application moved by the applicant for condonation of delay, this Hon'ble Tribunal was gracious enough to condone the

Reaper
26/12

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delay vide their order dated 10.4.90.

5. That the contents of para 4 (1) are admitted.
6. That the contents of para 4 (2) are admitted to the extent that applicant's husband, Late Shri Vidya Gagar died of heart attack on 29.6.1987. Rest of the contents need no comments.
7. That in reply to para 4 (3) it is stated that the applicant submitted an application on dated 20th July, 1987 for any suitable job in the Army Medical Corps Records, Lucknow.
8. That with reference to para 4 (4), it is denied that the applicant was asked to sign an application for the post of a peon. She submitted an application dated 20 July, 1987 requesting for appointment against any suitable post in the Record Office of Army Medical Corp, Lucknow. In order to submit her case to the competent authority for consideration, she was medically examined and was found fit for employment as a Peon.
9. That the contents of paras 4 (5) and 4 (6) are admitted.

10. That in reply to para 4 (7) it is stated that the application dated 14 March, 1988 submitted by the applicant was forwarded to the Director General of Medical Services, Army Headquarter, New Delhi on 14th April, 1988 for consideration. The decision of the Army Headquarters received vide their letter No. 11346/65/87/DGMS-3(B) dated 27 April, 1988 was communicated to the applicant vide deponent's office letter No. 702211/Rtg/LA/16 dated 5th May, 1988. A photostat copy of the said letter is being filed as

Annexure R-1

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11. That with reference to para 8 it is denied that her representation dated 14th March, 1988 was not replied. Reply to her / communicated to her vide letter dated 5th May, 1988, a copy of which is annexed as Annexure R-1. A legal notice dated 16 May, 88 from Shri Paras Nath, Advocate on behalf of the applicant was received by the deponent from the Army Headquarter which was returned to them alongwith para-wise comments.

12. That in reply to para 9 of the application it is submitted that "Representation dated 26 Oct. 89 and not 16 Oct. 89 as mentioned alongwith news paper cutting was sent by the applicant direct to Army HQ, DGMS-3(B) with copy endorsed to deponent's office. Army HQ, DGMS-3(B) was requested to re-consider her case for employment vide deponent's office letter No. 702211/Rtg/VSD/Civ/LA/49 dated 27th Nov., 1989.

*Replies
26/12*

13. That in reply to para 10 it is submitted that the Ministry of Home Affairs, Deptt. of Personnel and Administrative Reforms, Memorandum No. 14034/1/77-Estt. (D) dated 23 May, 1978 has since been superseded vide Min. of Home Affairs OM No. 14014/1/77-Estt(D) dated 25 Nov. 78 which has further been simplified and consolidated vide Min. of Personnel, Public Grievances and Pensions (Dept. of Pers. & Trg.) OM No. 14014/6/86-Estt.(D) dated 30 June 1987 (Copy enclosed as Annexure R-2). The applicant is educationally qualified but is not eligible for the post of Peon as she is over-age, her date of birth being 01 Jul., 1947.

14. That in reply to para 11 it is submitted that the Scheme of

compassionate appointment was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Govt. which have ~~been~~ made a significant difference in the financial position of the families of Govt. servants dying in harness. The benefits received by the family under these scheme are to be kept in view while considering cases of compassionate appointment. Smt. Vinod Duggal, widow of Late Shri V.S. Duggal has been sanctioned the following financial benefits under these schemes :-

(a) Payment under CG& GSI. - Rs. 21,144.00

(b) GP Fund - Rs. 9,924.00

accumulation alongwith amount

under the deposit linked

Insurance Scheme.

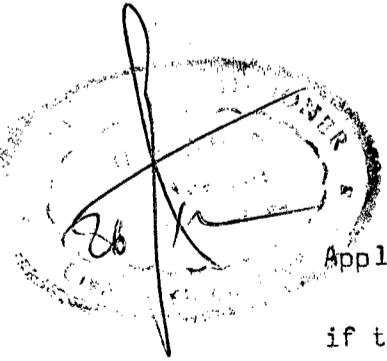
Deepak
R 26/12 (c) Improved family pension. - Rs. 820.00 per

month plus relief as

admissible from time

to time.

(d) DCRG - Rs. 50,020.00


Applicants for compassionate appointment should be appointed only if they are eligible and suitable in all respect under the provisions of the Recruitment Rules,. Also financial position should be kept in view while considering compassionate appointment.

According to Paras 4 (b) and 9 (d) of Min. of Pers, Public Grievances and Pensions (Dept. of Pers & Trg.) OM No. 14014/6/86-Estt.(D)

dated 30 June, 1987 referred to above, Smt. Vinod Duggal does not

does not fulfil the condition of age as provided in Recruitment Rules. She has also been sanctioned financial benefits mentioned above. As such her case was not considered fit for compassionate appointment under the provisions of paras 4 (b) and 9(d) of Govt. letter ibid. As such there is no violation of principles of natural justice.

15. That in reply to para 12 it is submitted that in view of the provisions contained in paras 4 (b) and 9 (d) of Govt. letter No. 14014/6/86-Estt.(D) dated 30 Jun, 1987 there has been no discrimination and violation of Article 14 and 16 of the Constitution of India. The applicant has not indicated the names of the persons against whom discrimination has been alleged.

16. Para-wise comments on the various grounds for relief as indicated in para 5 of the application are furnished below :-

Deepak
20/12
(i) & (ii) :- Min. of Home Affairs OM No. 14034/1/77-Estt.(D) dated 23 May, 1988 as mentioned does not appear to have been issued.

However, provisions of OM dated 23 May, 1978 mentioned in para 10 of the application have since been superseded, simplified and consolidated in Min. of Personnel, Public Grievances and Pensions (Dept. of Pers. & Trg.) OM No. 14014/6/86-Estt.(D) dated 30 June, 1987, according to which her case has correctly been rejected by Respondent No. 2.

(iii) The applicant is educationally qualified but is not eligible for the post of a Peon under the provisions of Recruitment Rules as she is over-age; her date of birth being 1st July, 1947.

(iv) Applications dated 20 Jul. 1987 and 14 March, 1988 were

considered and suitably replied vide AMC Records letters No.

702211/Rtg./VSD/LA/86 dated 05 May, 1988 respectively. (Copies are

being filed as Annexures R-3 and R-4).

(v) In view of the provisions contained in para 4 (b) and 9 (d)

of Govt. letter dated 30 June, 1987, there is no discrimination

and violation of Article 16 of the Constitution of India.

17. That the contents of para 6 & 7 need no comments.

18. That in view of the submissions made in the above paragraphs, the relief sought for in para 8 of the application is not admissible and is liable to be rejected.

19. That the contents of para 9 to 12 need no comments.

Cc

Lucknow :

TS *Verma*

Dated - :

DR

Deepak

Deponent. 26/12

For and on Behalf of (Rep.no. 363)

Verification

I, the above named deponent do hereby verify that the contents of

paras 1 to 2 - - - - - of this Counter Affidavit are

true to the best of my personal knowledge, that the contents of paras 3 -

- 17 - - - - - are true on the basis of records and those of

paras - - - 18 & 19 - - - - - are believed by me to be true based

on as per legal advice. That nothing material fact has been suppressed

and no part of it is false. *So help me God*.

contd.

A25

-: 7 :-

Signed and verified this the ^{Dee} day of ~~June~~, 1990 within
the Court compound at Lucknow.

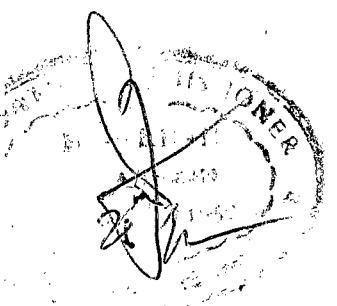
Lucknow ;

Deponent : 26, 149

* Deepak
Deponent. 26/12

I identify the deponent and is personally
known to me who has put his signature before me.

D. C. M.
Advocate.


Solemnly affirmed by the deponent on 26.12.90 at 10 a.m./p.m.
who has been identified by Dr. Dinesh Chandra, Advocate, High Court,
Lucknow Bench.

I have satisfied myself by examining the deponent that he
understands the contents of this affidavit which has been read over
and explained to him by me.

26/12
Oath Commissioner.

Smt. Vinod Duggal vs Union of India & others

Annexure R.2

(425/1984)

Copro

6

November, 1989

APPENDIX TO CPRO 23/89

A copy of Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) O.M. No 14014/6/86-Estt(D) dated the 30th June, 1987

COMPASSIONATE APPOINTMENTS OF SON/ DAUGHTER/NEAR RELATIVE OF DECEASED GOVT SERVANTS—CONSOLIDATED INSTRUCTIONS

The undersigned is directed to say that instructions have been issued by this Department from time to time laying down the principles to be followed in making compassionate appointments of sons/daughters/near relatives of deceased Government servants. For facility of reference, the orders issued on the subject have been simplified and consolidated in this Office Memorandum.

1. To whom applicable :

- (a) To a son or daughter or near relative of a Government servant who dies in harness including death by suicide, leaving his family in immediate need of assistance, when there is no other earning member in the family.
- (b) In exceptional cases when the Department is satisfied that the condition of the family is indigent and is in great distress, the benefit of the compassionate appointment may be extended to a son/daughter/ near relative of a Government Servant retired on medical grounds under Rule 33 of Central Civil Services (Pension) Rules, 1972, or corresponding provisions in the Central Civil Service Regulations before attaining the age of 55 years. In case of Group 'D' employees whose normal age of superannuation is 60 years, compassionate appointment may be considered where they are retired on medical grounds before attaining the age of 57 years.
- (c) To a son or daughter or near relative of a Government servant who dies during the period of extension in service but not re-employment.
- (d) Authority competent to make compassionate appointments.
- (a) Joint Secretary In charge of Administration or Secretary in the Ministry/Department concerned.

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(b) In the case of Attached and Subordinate Offices, such power may be exercised by the Head of the Department under Supplementary Rule 2(10).

3. Posts to which such appointments can be made :

Group 'C' post or a Group 'D' post.

4. Eligibility :

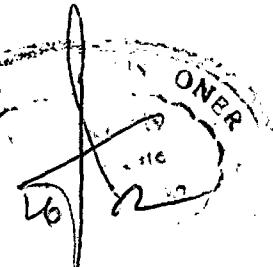
(a) Compassionate appointments can be made only against direct recruitment quota.

(b) Applicants for compassionate appointment should be appointed only if they are eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

(c) Departments are, however, competent to relax temporarily educational qualifications in the case of appointment at the lowest level i.e. Group 'D' or LDC post, in exceptional circumstances when the condition of the family is very hard. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the service of the persons concerned if still unqualified, are liable to be terminated.

(d) Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirement of educational qualifications, provided the duties of the post can be satisfactorily performed without having the educational qualification of Middle standard prescribed in the Recruitment Rules.

(e) In deserving cases even where there is an earning member in the family a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member as also his liabilities including the fact that the earning member is residing with the



family of the deceased Governor at Servant and whether he should not be a source of support to the other members of the family.

5. Extent to which compassionate appointments can be made :

The appointing authorities may ensure that total reservation for Scheduled Castes, Scheduled tribes, Physically Handicapped persons and ex-servicemen, the details of which are given below, together with carry forward reservation (which at present is applicable only in respect of SC/ST and Physically handicapped persons) should not exceed 50% of the vacancies available on any particular occasion;

- *(i) Scheduled Castes ..15%
- *(ii) Scheduled Tribes...7½%
- *(iii) Ex-Servicemen...10%

In Group 'C' posts and 20% in Group 'D' posts subject to proviso 1 of Rule 4 of this Departments Notification No 39016/10/70/Estt.(C) dated 15-12-1979.

- (iv) Physically Handicapped persons...3%

*The percentages of reservation for SC/ST are different in case of offices using 100 point roster at appendix 3 of the Brochure on Reservation for SCs and STs in Services.

6. Relaxation :

Compassionate appointments are made in relaxation of the following :

- (a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or Employment Exchange.
- (b) Age limit wherever necessary. The relaxation of lower age limit should not be below 18 years of age.
- (c) Educational qualifications to the extent stated in para 4 above.
- (d) Clearance from Surplus Cell of this Department/ Directorate General of Employment and Training.

7. Belated requests for compassionate appointments :

Ministries/Departments can also consider the requests for compassionate appointment even where the death took place long ago, say five years or so, while considering such belated

26/2

requests it should be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. The very fact that the family has been able to manage somehow all these years should normally be adequate proof to show that the family had some dependable means of subsistence. Therefore, examination of such cases call for a great deal of circumspection. The decision in those cases may be taken at the level of Secretary only.

8. Widow appointed on Compassionate grounds getting re-married :

A widow appointed on compassionate grounds will be allowed to continue in service even after re-marriage.

9. Selective approach :

- (a) The appointment made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical qualifications and experience required for the post consistent with the requirements of maintenance of efficiency of administration.
- (b) It is not the intention to restrict employment of son/daughter/near relative of deceased Group 'D' employee to a Group 'D' post only.
As such, a son/daughter/near relative of deceased employee can be appointed to a Group 'C' post for which he is educationally qualified, provided a vacancy in Group 'C' exists.
- (c) As the appointments have to be cleared at the level of the Head of the Department and as all the vacancies are to be pooled for compassionate appointment, it may be ensured that subordinate and field offices get an equitable share in the compassionate appointments.
- (d) The scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government such as the following which have made a significant difference in the financial position of the families of Government servants dying in harness. The benefits received by the family under these schemes may be kept in view while considering cases of compassionate appointment.

A29

26/11/2023

1. Under the Central Government Employees Insurance Scheme financial assistance to the family of the deceased Government servant is as under :—

Group 'D' Employees—Rs. 10,000/-

Group 'C' Employees—Rs. 20,000/-

Group 'B' Employees—Rs. 40,000/-

Group 'A' Employees—Rs. 80,000/-

In addition nearly 2/3rd Rs of the amount contributed by the Government servant to the fund is also payable alongwith the above amount.

2. Benefit of encashment of leave to the credit of the deceased Government servant at the time of his death subject to a maximum of 240 days.
3. Entitlement of additional amount equal to the average balance in the GPF of the deceased Government servant during the three years immediately proceeding the death of the subscriber subject to certain conditions under the Deposit-Linked Insurance Scheme.
4. Improved family pension.
5. Assistance from Compassionate Fund, wherever necessary.

10. Request for change in Post :

When a person has accepted a compassionate appointment to a particular post, the set of circumstances which led to his initial appointment, should be deemed to have ceased to exist and thereafter the person who has accepted compassionate appointment in a particular post should strive in his career like his colleagues for future advancement and claims for appointment to higher post on consideration of compassion should invariably be rejected.

11. General

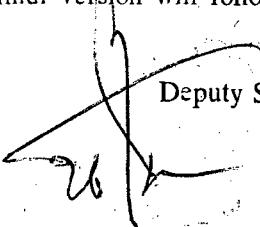
The proforma as in Annexure may be used by Ministries/ Departments for ascertaining necessary information and processing the cases of compassionate appointments.

Hindi version will follow.

Sd/-

(K. S. R. Krishna Rao)

Deputy Secretary to the Government of India
Tele : 3013180.



O.A.No. 63 of 1980

(16)

Smt Vinod Duggal vs. Union of India & Ors. Annexure R.1

Tele Mill : 757

Sena Chikitsa Corps Abhilekh
Army Medical Corps Records
Lucknow-226002

102211/Rtg/SD/LA/16

15 May 88

Smt Vinod Duggal
W/O Late Shri VS Duggal
L-177 Sector 'E'
IDA Colony, Hind Nagar
Lucknow

EMPLOYMENT ASSISTANCE TO THE DEPENDENT OF DECEASED
GOVT SERVANT

~~P-11~~ 1. Refer to your application dated 14 Mar 88.

~~P-12~~ 2. Your application dated 14 Mar 88 was forwarded to Army Headquarters (DCMS) for re-consideration. The decision of Army Headquarters is as under :-

~~P-13~~ "The case of Smt Vinod Duggal W/O Late Shri VS Duggal has been re-examined for employment assistance and it is regretted that the case could not be found fit for the purpose."

3. You are, therefore, advised to seek the assistance of Employment Exchange in finding the employment.

(D N Talukdar)

Lieut

Adm Officer

for Officer-in-Charge

KDC

5/5

Recd

राजीद दुग्गल

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20/5/88
R. N. K.

Smt. Vinod Duggal, ^{2. A. 63 of 1982}
Smt. Vinod Duggal, ^{2. A. 63 of 1982}
Mil Tele : 757

Registered

Army No. - R-3
Sena Chikitsa Corps Abhilekh
Army Medical Corps Records
Lucknow-2

702211/Rtg/MSD/LA/2

21 Jan 88

Smt. Vinod Duggal
W/C Late Shri V S Duggal
L-177 Sector 2
LDA Colony, Hind Nagar,
Lucknow

EMPLOYMENT ASSISTANCE

P. 1 1. Refer to your application dated 7ul 87.

P. 4 2. The case for your employment as been on compassionate grounds relaxing the upper age limit and the employment procedure, was submitted to higher authorities for consideration. It has been intimated by Army Headquarters, that in view of the limitations and restrictions imposed by the Government, it is not possible to sponsor your case for employment in relaxation of the Employment Exchange procedure.

P. 4 3. You are, therefore, advised to seek the assistance of Employment Exchange in finding the employment.

G P Arya
(G P Arya)
Lieut
Adm Officer
for Officer-in-Charge

3/11

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20/1/88