

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

MR. 100
987/95
ORIGINAL APPLICATION NO. 552/1996

21-1-97

Date of Decision:

1. Shri Shyamrao G. Mali

Petitioner/s

2. Smt. Anusayabai G. Mali

Advocate for the
Petitioner/s

Mr. D. V. Gangal

V/s.

U.O.I. & Ors.

Respondent/s

Mr. R. K. Shetty

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R. Kolhatkar, Member(A)

Hon'ble Shri

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

M.R.Kolhatkar
(M.R. KOLHATKAR)
M(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.987/95

Tuesday, this the 21st day of January '97

CORAM:

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

1. Shri Shyamrao G.Mali
Qr.No.1/5(Type J)
Ordnance Factory Estate,
Bhusaval.
2. Smt.Anusayabai G.Mali,
Qr.No.1/5(Type J)
Ordnance Factory Estate,
Bhusaval.

(By Advocate Mr.D.V.Gangal) .. Applicant

-Versus-

1. The Union of India
through
Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.
2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.
3. The General Manager,
Ordnance Factory,
Bhusaval.

(By Advocate Shri R.K.Shetty) .. Respondents

The application having been heard on 21st January '97
the Tribunal on the same day delivered the following:

ORDER

(Per M.R.Kolhatkar, Member(A))

This is a second round of litigation.

O.A.789/93 between the same parties was disposed of
by the Tribunal on 1-12-1994 by giving the following

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direction :

"In the interest of justice I hereby direct the respondent to consider the case of the applicant for compassionate appointment, ignoring the age limit and consider his request for compassionate appointment made on earlier occasion, keeping in view of the pecuniary conditions of his mother and take proper decision within a period of three months from the date of receipt of this order and pass a suitable order in this behalf. O.A. is disposed of accordingly."

In terms of this direction respondents have passed an order at page-19 of the O.A. material part of which read as below :

- "(1) The family has been sanctioned pension of Rs.1348/- p.m. with dearness relief.
- (2) You have received other terminal benefits to the tune of Rs.89,124/-
- (3) There are only three dependants in your family(i.e. yourself, mother and one brother)
- (4) Your father expired barely six months before the date of his retirement on superannuation.

In view of the above, it has been decided by the competent authority that there is no merit for employment assistance on compassionate grounds to you and it is not a fit case."

I notice, however, that when earlier this request was turned down (Annexure A-4, page 22) the same reasons were given viz. family condition and pecuniary circumstances of the deceased. So far as comparison with the case of Shri Amarsingh Patil is concerned

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it appears to stand on a different footing because it was decided prior to the introduction of the marking system. After introduction of marking system the respondents appear to have assessed the marks of the applicant as below :

<u>Attributes</u>	<u>Max. Marks</u>	<u>Marks obtained</u>
1. Family Pension	20	16
2. Terminal benefits	10	01
3. Movable/immovable property	10	10
4. No. of minor sons and unmarried daughters	30	10
5. Other dependents including applicant	20	10
6. Left over service of Govt. Servant.	10	02
	<u>100</u>	<u>49</u>

It is not in dispute that such cases are considered on score 50 marks and above. Since the applicant's case fell short by one mark (49/50) it has been turned down. It, however, appears that the marking actually done may not be in accordance with the Govt. orders on this subject. The applicant has stated in his rejoinder dt. 26-6-96 that he ought to have got 61 marks as mentioned by him on page 94 as below :

<u>Sr.No.</u>	<u>Marks allotted by respondents</u>	<u>Marks should be allotted</u>
1. Family Pension	16	16
2. Terminal benefits	1	03
3. No. of Dependents	10	10
4. Minor sons & unmarried daughters	10	20
5. Movable and immovable property	10	10
6. Left over service	<u>01</u>	<u>02</u>
	<u>49</u>	<u>61</u>

The main contention of the applicant is/that the applicant has been given less marks under terminal benefits because the respondents have taken into account GPF balance,

Death benefit by Factory & Death benefit by Society which cannot be included in the total amount and thus the total amount to be taken into account is Rs.73,342/- as against Rs.89,124/- which has been taken into account by the respondents. Therefore, score under that head is required to be stepped up.

2. Secondly the applicant contends that marks in connection with minor sons and unmarried daughters should be 20 and not 10. For this purpose he states that the applicant has two sisters and according to the caste custom they have to maintain the daughter for a longer period after marriage than in other castes. I am afraid that it is not possible for the Tribunal to calibrate the marks according to caste customs for which a much more thorough investigation has to be launched. However, there is a simple factor which the respondents have missed viz. that the applicant's younger brother is handicapped and the fact of the handicap would certainly require the marks under the heading "minor sons and unmarried daughters" ^{to} be stepped up because a handicapped person unless he is able to get benefit of 3% reservation which is a remote possibility is a permanent drag on the family. I have also to keep in view the provisions of Article 41 of the directive principles of state policy relating to public assistances in cases of disablement. The respondents are therefore bound to consider the contention of the applicant on this point ^{as well as the parity Terminal benefit} and enhance ^{the} the marks allotted to the applicant which would not be therefore less than 50. Respondents are therefore directed to consider the case of ~~the~~ the applicant for compassionate appointment on the footing that the score is 50+ and pass appropriate order. In this connection respondents have ^{also} produced scheme of marking in respect of

another employee who got 53% marks and on that footing compassionate appointment has been offered. The case of applicant appears to be similar. O.A. is disposed of in these terms.

3. IR in respect of quarter to be continued till after the fortnight from the date of passing of the order by respondent.

4. Action as directed should be taken within three months from the date of receipt of a copy of this order.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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