

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

ORIGINAL APPLICATION NO. 291/00696/2014

Date of Order: 14.7.2016

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Smt.Guddi Devi w/o late Shri Nattho, aged about 38 years, by caste Dhobi, R/o Near Sharma Tyre Centre, Neemda Gate Road, Bharatpur.

.....Applicant

(By Advocate Mr. Keshav Agarwal)

VERSUS

1.Union of India, through Principal Secretary, Ministry of Defence, New Delhi.

2.Col. Commandant, Field Ammunition Depot, Bharatpur.

.....Respondents

(By Advocate Mr. D.C.Sharma)

ORDER

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 by the applicant being aggrieved with the order of the respondents dated 24.07.2014 Ann.A/1 denying her compassionate appointment, and seeking the following reliefs:-

8. That this application may kindly be allowed and impugned order dated 24.07.2014 (Ann.A/1) may kindly be quashed and set aside. Further the respondents may kindly be directed to give appointment to the applicant in place of her husband late Shri Nattho on the basis of compassionate ground on suitable post. Further special cost may also be awarded for keeping the matter pending for such a long time.

Any other order which this Hon'ble court deems proper may also be granted in favour of the applicant.

When the case came up for consideration and hearing, the Ld. Counsel for the applicant submitted that earlier an OA No.767/2012 was filed by the applicant, who is widow lady, regarding compassionate appointment and the OA was decided by this Tribunal vide order dated 19.03.2014 (Ann.A/6) in which the following directions were given:

"10. Therefore, in view of the above discussion, the respondents are directed to reconsider the case of the applicant after verifying the total terminal benefits received by the applicant and also looking that the applicant is a widow and has a liability of a minor son. This exercise may be completed in next four months or when the next Board of officers meeting is held for the purpose, whichever is earlier."

Counsel for the applicant further submitted that the respondents considered the case of the applicant and in compliance of the aforesaid order of this Tribunal passed the speaking order dated 24.07.2014 Ann.A/1. Counsel for the applicant submitted that he is aggrieved with three issues in the said order on the basis of which low marks have been given to the applicant.

- i) First, with regard to the terminal benefits, counsel for applicant submitted that in the table at para 10 of the speaking order (Ann.A/1 internal page 4) the terminal benefits have been shown as Rs. 1,38,874/-, and 8 marks have been given. In this regard he submitted that actually the applicant has received only Rs. 1,18,902/- as terminal benefits as may be seen from the Ann.A/7 (Page 26) which is a Succession certificate issued by the Additional District & Session Court No.2, Bharatpur and therefore only Rs.1,18,902/- needs to be shown as terminal benefits and accordingly the applicant becomes entitled to more than 8 marks.
- ii) Secondly, counsel for the applicant contended that the monthly income of Rs.1000/-has been shown, though the applicant is very poor and has no income and as may be seen at Ann.R/26 filed by the respondents she had clearly submitted in her application to the Tehsildar that she has no income, but somehow the Tehsildar has shown her monthly income as Rs.1000/- which is not correct.
- iii) Thirdly, the value of the immovable property (ancestral house) has been shown Rs.70,000/- on the basis of Ann. R/27 but actually the applicant is entitled to only 1/4th share out of it (other shares belong to other family members) but the total value has been taken into account in the table at page 10 of the speaking order at Ann.A/1 and this is neither factually correct nor according to law.

Counsel for the applicant thus contended that if the aforesaid correct position is taken into account applicant's total marks will increase from 51 to 55 and the last cut off mark was 52 against the

vacancy for the year 2008-09 and the applicant who is the poor widow lady and deserving will get a job.

2. Per contra, the counsel for respondents submitted on the first point, that terminal benefits of Rs.1,38,874/- have been shown correctly because as may be seen from the table at para 9 of the speaking order (Ann.A/1), the DCRG, GP Fund,CGEGIS-80 and Leave encashment have been paid to the applicant by cheques and the total of which comes to Rs. 1,38,874/-, therefore, the claim of the applicant that she got only Rs.1,18,902/- as terminal benefits is not correct. Details of the cheques have also been enclosed with the reply. Secondly, as may be seen from the report of Tehsildar (Ann.R/26) that the applicant has an income of Rs.1000 per month which has been considered by the respondents and the applicant did not furnish any document to contradict this point. As far third point regarding immovable property is concerned, the certificate at Ann. R/7 shows that applicant has ancestral house and the cost of the property is Rs.70,000/- as assessed by the competent authority which was correctly taken into account. Therefore, on the basis of this information the marks have been correctly allocated to the applicant and there is no ground to set aside the Ann.A/1 speaking order.

3. Considered the aforesaid contentions and perused the record. As far as first objection of the counsel for applicant is concerned regarding terminal benefits, the respondents have given details of the amount of Rs.1,38,874 paid to the applicant and therefore, there is no reason of dispute that amount paid to the applicant as terminal benefits.

4. As far as 2nd point regarding monthly income is concerned, monthly income of Rs.1000/- has been certified by the Tehsildar, as per the Ann. R/26 and the applicant has not shown any document to contradict the same, therefore, there was no ground before the respondents to doubt the certificate of the Tehsildar.

5. As far as 3rd point regarding immovable property is concerned, though the Tehsildar at Ann.R/27 has shown the value of ancestral property as Rs.70,000/- but in the rejoinder to the reply filed by the applicant it has been stated that the applicant has only 1/4 share in the ancestral property. In view of this averment that the applicant has only 1/4 share of the ancestral property, the amount against the same is required to be considered proportionately.

6. In view of the above position and also taking into account the fact that the applicant is a widow lady with the responsibility of a minor son, and that she got just one mark less than the cut off marks when her case was considered for the year 2008-2009, it is deemed appropriate in the interest of justice to dispose of this case with certain directions. Accordingly it is directed that:

- i) The applicant may submit a fresh representation for compassionate appointment before the respondents clarifying the position with regard to $\frac{1}{4}$ share of the applicant in the immovable property duly attested by the competent authority, within two months from the date of receipt of this order.
- ii) The respondents are directed to reconsider the case sympathetically after receipt of the fresh representation and clarification from the applicant and decide the same at the earliest and preferably within four months from the date of receipt of the representation.

With these directions the OA is disposed of with no order as to costs.



(MS.MEENAKSHI HOOJA)
Administrative Member

Adm/