

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH , JAIPUR

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Date of Order : 14.5.2003.

O.A. NO. 266/2002

Smt. Suchitra Phogat (Choudhary) Wife of Late Shri Kamal Singh Phogat, aged about 39 years, resident of Plot No. 38, Pratap Nagar, Jaipur (Rajasthan).

.....Applicant.

versus

1. The Union of India through Home Secretary, Ministry of Home Affairs, Department of Administrative Reforms, New Delhi.
2. Signals Mahanidshalaya/Sigs.4(c), General Staff Shakha, Thal Sena Mukhayalaya, Dte General of Signals Sigs.4(c), General Staff Branch, Army Head Quarters, PHQ PO New Delhi.
3. Mr. Col. Adm. (whosoever), Commandant for Station Cdr., HQ 61 (mdep.), Sub Area Station Cell C/o 56 A.P.O.

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

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None is present on behalf of the applicant.
Mr. P.C. Sharma, Advocate, brief holder for
Mr. Sanjay Pareek counsel for the respondents.

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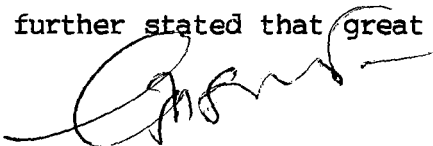
ORDER

BY THE COURT :

Through this O.A., applicant calls in question the order dated 25.7.2001² whereby, the applicant's request for appointment on compassionate ground is said to have been rejected. It may be pointed out that there is no order of date 25.7.2001 placed on record. Instead there is order Annexure A/7 dated 25.9.2001. However, in the Index to the O.A., there is no mention of the order dated 25.9.2001. Instead there is a mention of the order dated 20.7.2001.

2. Be that as it may, the case for the applicant is that her husband late Shri Kamal Singh Phogat, was a civilian in the Military Exchange. He died on 26.4.2000 leaving behind the applicant, mother, son and daughter. The applicant made an application for providing employment on compassionate ground. Her application was rejected vide letters dated 17.5.2000 and 3.6.2000. The cause of rejection in the said letters was that the applicant was over age. The applicant challenged those orders by filing O.A. No. 375/2000 which was decided vide order dated 20.4.2001. The respondents were directed to consider the case of the applicant after considering the relaxation in upper age limit of the applicant for employment, within a period of four months. The applicant was not provided employment, hence, she filed Contempt Petition No. 77/2001. The said Contempt Petition was dismissed vide order dated 24.4.2002 giving liberty to the applicant to file fresh O.A. Thereafter, the applicant has filed this O.A. on 3.6.2002.

2.1. The say of the applicant is that the respondents have erred in rejecting the claim of the applicant by a non speaking order. It is averred that the intention of the Court in the order dated 20.4.2001 was to provide employment to the applicant. It is further stated that great hardship is being caused to the family of



the deceased employee and the members are in indigent condition.

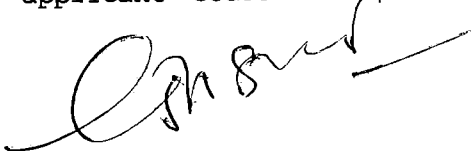
3. In the reply, the respondents have come out with the case that the competent authority has passed the order dated 20.9.2001 after giving relaxation of upper age limit to the applicant. It is stated that the Board of Officers in the meeting held in September 2001 and July, 2002, approved six candidates for giving appointment on compassionate grounds on the basis of the marks secured by them, and no person, having lesser or equal marks to the applicant, was given appointment. It is also stated that the case of the applicant will be considered when her turn comes and subject to the availability of the vacancy.

4. In the rejoinder, the applicant states that the impugned order is dated 20.9.2001 whereby the claim of the applicant has been rejected without any reason and that she was given lesser marks under the heading 'family pension' whereas, other persons were given more marks.

5. I have heard the learned counsel appearing on behalf of the respondents. None appeared for the applicant.

6. I have gone through the entire record of the case.

7. It is evident from the order Annexure A/7 that the case of the applicant has been considered giving her relaxation in upper age limit. In the order Annexure A/7, it is stated that keeping in view the financial condition of the family, liabilities after giving weightage to the number of the dependants, number of minor children, number of married daughters, monthly income, immovable and movable properties and left over service of the deceased employee, the applicant could not come in the merit list for the 5% available



vacancies. It cannot be said that the order Annexure A/7 is a non speaking order. The reasons have been assigned in the order.

8. Along with the reply, the respondents have filed a comparative chart of the candidates seeking employment on compassionate grounds. Marks have been allotted to each candidate under the various heads such as, Family Pension, Terminal benefit, Movable/Immovable property, number of dependants, number of unmarried daughters, number of minor children and left over service of the deceased employee. The applicant has secured 56% marks. As per the averments made in the reply and the statement Annexure R/2, persons who got more marks than the applicant, were given appointment. This Court cannot be justified in reviewing the marks given to the applicant and the other candidates. The applicant was given 10 marks under the heading 'family pension'. There is no scope to argue that more marks ought to have been given to the applicant under that heading. Since no person securing less marks or even equal marks to that of the applicant, has been appointed, it cannot be said that the respondents have rejected the claim of the applicant for appointment on compassionate ground arbitrarily.

9. It is significant to point out that the respondents have still kept the claim of the applicant pending. It has been assured that her claim will be re-considered subject to the availability of vacancy. The applicant should not have an apprehension that she may not be given appointment. She may challenge the action of the respondents, if on re-consideration, she is not given appointment.

10. The result is that the applicant cannot succeed in this O.A. as she has been denied appointment for valid grounds.

11. There being no merit in the O.A. It is dismissed. No order as to cost.


(G.L. Gupta)

Vice Chairman