

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR

Date of decision: 09.01.2004

OA No.66/2003

Pradeep Kumar s/o late Shri Murari Lal r/o Vill-Giruri, PO
Bansur, Distt. Alwar (Raj.).

.. Applicant

VERSUS

1. The Union of India through its Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Engineer-in-Chief, Kashmir House, Army Headquarters, QMS Branch, DHQ PO, New Delhi- 110 011.
3. The Chief Engineer Jaipur Zone, Power House Road, Bani Park, Jaipur.
4. The Garrison Engineer (MES), Jaipur.

.. Respondents

Mr.R.S.Bhadoria - counsel for the applicant.

Mr.Vijay Singh, proxy counsel to Mr. Bhanwar Bagri -
counsel for the respondents

CORAM:

Hon'ble Mr. R.K.Upadhyaya, Member (Administrative)

Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER (ORAL)

This application, under Section 19 of the Administrative Tribunals Act, 1985, has been filed claiming compassionate appointment on the death of the father of the applicant, Shri Murari Lal. The applicant's father, late Shri Murari Lal, was a Safaiwala in the

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office of respondent No.4, who died in harness on 29.12.1995. The claim of the applicant is that immediately after the death of his father, he applied for compassionate appointment. The family of the deceased consisted of widow, four sons and two daughters. All the children of the deceased were minor at the time of the death. The learned counsel of the applicant stated that this is one of the most deserving case, where compassionate appointment should have been given. According to the learned counsel, rejection of compassionate appointment after such a long period is ~~void~~^{bad a} in law. The applicant has been informed by letter dated 12.11.2002 that compassionate appointment cannot be given. The learned counsel also further stated that subsequently letter dated 6.2.2003 has been received which states that the applicant's case has been considered for the 'fourth and final look' and the request of the applicant for compassionate appointment has finally been rejected. The learned counsel placed reliance on the decision of the Hon'ble Rajasthan High Court, Jaipur Bench in the case of Suresh Kumar Sharma vs. Union of India and ors., 2003 WLC 317 where the Hon'ble High Court has held that rejection of compassionate appointment solely on the ground that the family has received terminal benefits, was bad in law. It was further argued by the learned counsel that if there were not enough vacancies in the respondent department, the applicant could have been accommodated in any other department as per the scheme of the compassionate appointment.

2. The learned counsel of the respondents has opposed the prayer of the applicant. He invited our

C. B. Singh

attention to the reply filed wherein it has been stated that the case of the applicant has been considered by the Committee of Officers considering compassionate appointment, several times. As a matter of fact, the respondent No.4 has been taking steps to see that the applicant could be accommodated, but because of overall limitations, compassionate appointment could not be given.

3. We have heard the learned counsel of both the parties and have perused the material available on record.

3.1 The scheme of compassionate appointment is to render immediate financial help to the surviving members of the deceased Government employee. The instructions on the subject direct the different departments of the Government to take a decision in the matter preferably within one year. However, subsequently by instructions dated 5.5.2003, the Government modified its instructions and directed that the cases may be reviewed upto three years, if the same was not possible within first year. In this case, we find that the respondent department has taken enough steps to consider the claim of the applicant. However, the respondents have not been able to find a vacancy for the applicant within the prescribed 5% ceiling of direct recruitment vacancies for compassionate appointment. It has also been stated in the impugned order of the respondents that there were several applications for the post of compassionate appointment. The applicant's case could not be considered more deserving than those who have been offered compassionate appointment.

3.2 The Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana and. Ors., JT 1994 (3) SC 525 have held that compassionate appointment should be

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offered as early as possible but the surviving members of the family of the deceased Government employee cannot claim the compassionate appointment as a matter of right as if the same was in the line of inheritance.

3.3 The Hon'ble Supreme Court in the case of Sanjay Kumar vs. State of Bihar, 2000 (7) SCC 192 have held that if there is substantial delay from the date of death, the case cannot be considered indefinitely.

3.4 From the perusal of material available on record, we find that the case of the applicant has been considered several times. It was on account of lack of adequate number of vacancies that the applicant's claim could not be allowed. The decision of the Hon'ble Rajasthan High Court relied upon by the learned counsel of the applicant, will not be applicable in the facts of the case as the present case is not of rejection of the claim merely because of grant of terminal benefits to the surviving members of the deceased Government employee. It has also to be borne in mind that the ~~scope~~ scope of judicial review by this Tribunal is limited. What is the comparative merit of the applicant has to be determined by the respondents, having constituted a Committee of Officers, who does this job. In our view, there is no justification to interfere with the order of the respondents in this case.

4. In the result, this OA is dismissed without any order as to costs.


(BHARAT BHUSHAN)

Member (J)


(P.K. UPADHYAYA)

Member (A)