

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

Date of Order : 28/04.2004

OA No. 223/2003

Hanuman Sahai s/o late Kistoora, aged about 25 years,
resident of Plot No.72/2, Balmiki Colony, Sector
No.1, Malviya Nagar, Jaipur.

... Applicant

v e r s u s

1. Union of India through the Secretary of
Mines Department, Government of India,
Shastri Bhawan, New Delhi.
2. Director General, Geological Survey of
India, 27, Jawahar Lal Nehru Road, Calcutta.
3. Deputy Director General, Geological Survey
of India, Western Region, 15-16, Jhalana
Doongari, G.S.I. Complex, Jaipur.
4. Director and Head of Office, Geological
Survey of India, 15-16 Jhalana Doongri,
Jaipur.

... Respondents.

Mr. Suresh Kashyap, counsel for the applicant.

Mr. ~~N~~.C.Goyal, counsel for the respondents.

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Hon'ble Mr. A.K.Bhandari, Member (Administrative)

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Per Hon'ble Mr. A.K.Bhandari.

Shri Hanuman Sahai has filed this OA u/s 19

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of the Administrative Tribunal's Act to seek quashing of the impugned order dated 21.10.2002(Annexure A/1) and the exact prayer clause reads as under:-

"(i) It is, therefore, respectfully prayed that this Original Application may kindly be allowed, quash and set aside the order dated 21.10.2002 and direct the respondents to consider the case of the applicant for appointment on compassionate grounds and he be given appointment on a suitable post.

Any order or directions which the Hon'ble Tribunal deems fit and proper be also passed."

2. The facts of the case are that father of the applicant a (Class IV) Group 'D' employee died on 3.7.2000 and his widow, a blind person, made an application for giving appointment to her son, the applicant, stating that pension which she is receiving is meagre and is not sufficient to maintain her family affairs. Therefore, appointment on compassionate grounds be given to her son. That all the documents as directed by the respondents to satisfy the formalities and to prove the indigent status of the family were submitted. The mother of the applicant also submitted an Affidavit stating therein that she does not possess any moveable or immoveable property and she is living in a rented house, owns only a old fridge and one Black & White TV but the respondents have not given the benefit of compassionate appointment to the applicant and have

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issued a non speaking order dated 21.10.2002 (Annexure A/1). In the grounds, it is stated that the impugned order (Annexure A/1) is contrary to the provisions of law and the authorities have committed serious error while issuing the same inasmuch as the object of the provisions for compassionate appointment is to help the bereaved family and to provide employment to the dependants of the deceased Govt. Servant who die in harness. The delay in dealing with the matter by the respondents has also defeated the object of the Scheme. It is further stated that it is a legal right of every citizen to get suitable job and that the respondents were required to consider the matter of the applicant immediately after the receipt of the application but the action of the respondents shows no regard for law and that they have not feelings towards family of the deceased employee of the Department. It is also stated that the applicant's family receives a meagre pension of Rs.1872/- per month, the mother of the applicant is blind and there is no earning member in the family. As per many earlier decisions of courts and Tribunals, the respondent are supposed to decide such matter on priority basis.

3. The respondents have given an exhaustive reply. In the opening paragraphs, it is made clear that the case of the applicant was placed before the Compassionate Appointment Committee (CAC) but the same did not recommend it. In Para-wise reply, it is stated that the case of the applicant was not only considered once but it was considered thrice by the

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CAC and that the CAC which met on 16.4.2003 considered the fact that the applicant is aged 26 years and he is married and the daughter of the deceased Govt. servant is also married. That the widow is receiving family pension regularly, she has also received DCRG, GPF and CGEGIS; totalling to Rs.1,74,491/-. The case of the applicant was considered as per instructions on the Scheme of appointment on compassionate grounds contained in OMs dated 9.10.1998 and 22.6.2001 (Annexures R/1 and R/2 respectively) and having not found the condition of the applicant indigent, the case was not recommended by the CAC. That the CAC which met earlier on 3.4.2002 and 17.7.2002 had also considered the case of the applicant but did not find the same worth recommending for appointment on compassionate grounds. Replying to the grounds, illegality on part of respondents is denied by claiming thorough compliance of instructions contained in OMs dated 9.10.1998 and 22.6.2001 (Annexures R/1 R/2 respectively). That CAC did not find the case of the applicant worth recommending three times. The violation of Articles 14 & 17 of the Constitution are denied, quoting many decisions of the Hon'ble Supreme Court in which it was held that appointment on compassionate scheme is to be given as per statutory provisions, which has been done in this case. That compassionate appointment is an exception to the general rules and the appointment is given only to the most deserving candidate meaning thereby most needy person to provide immediate relief and in this case, such condition do not exists inasmuch as death

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of the deceased Govt. servant occurred in July, 2000, widow is receiving pensionary benefits including family pension regularly, her daughter is married and the applicant is 26 years of age (married) with a daughter cannot be considered a dependent and liability for for the widow. Thus the widow is left with entire family pension to manage her affairs. It is also pleaded that subjectively the applicant may feel that his case is deserving but the respondents have taken a objective view while considering the pending cases in the CAC and made recommendation in favour of the most needy among the applicants, at the same time limiting the recommendation to the very number of vacancies available for appointment on compassionate grounds. In view of this, the action of the respondents cannot be considered violative of Article 14 & 16 of the Constitution of India.

4. The parties were heard in length. The learned counsel for the applicant repeatedly made the plea that the widow lives in a rented house and has no moveable or immoveable property and that applicant was not 26 years of age at the time of death of his father or when the first application for compassionate appointment was made to the respondents. He also contended that there are many decisions of Hon'ble Supreme Court including Balbir Kaur & Another vs. Steel Authority of India Ltd. & Other reported in 2000 SCC(L&S) 767, according to which pensionary benefits alone cannot be ground to reject compassionate appointment. As such impugned order deserves to be quashed. The learned counsel for

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the applicant has also pleaded that the applicant is neither married nor was he 26 years of age and deserves to be appointed on compassionate grounds.

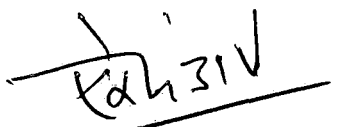
5. The learned counsel for the respondents made me travel through the entire policy and Scheme of Compassionate Appointment. That the case of the applicant was not rejected merely on the ground of pensionary benefits nor merely because the daughter was married but on comparative assessment of the pending cases before the CAC who did not find the case of the applicant indigent enough. The case of the applicant was considered not only once but thrice the dates of which have been given in the reply. During the last consideration on 16.4.2003, CAC took note of the fact that the applicant was married and was of 26 years of age and in terms of the decision of this very Bench as also earlier decisions of the Co-ordinate Benches at Jodhpur and Jabalpur, the case could not be considered fit for compassionate appointment since he had completed 25 years of age and he can no more be considered a liability of his widow mother.

6. I have given considered thought to the pleadings and find that the action of the respondents in issuing the impugned order is justified on following grounds. Firstly, the respondents have considered the case of the applicant sympathetically not only once but thrice but his case was found less indigent in comparison to the other cases. Secondly, compassionate appointment can only be given within 5%

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of the available vacancies of direct recruitment quota during the year and if such vacancies are not available, the CAC cannot recommend the cases for giving appointment on compassionate, and the system of maintaining waiting list has also been dispensed with. The respondents have put up the case of the applicant to CAC three times whenever vacancies were available and they cannot be considered unsympathetic to the applicant. Thirdly, it cannot be accepted that compassionate appointment is a right of the applicant. Being an exception to the normal mode of recruitment, it can be given only to the most deserving candidate to tide over the immediate difficulties arising from sudden removal of bread earner. In this case, the case of the applicant was considered sympathetically till as late as April, 2003. Fourthly, it is noticed that the case is not rejected merely on the ground of pensionary benefits and the plea involved in Balbir Kaur & Another vs. Steel Authority of India Ltd. and Others would not apply here. Last but not the least, the age and marital status of the applicant had to be taken note of alongwith the fact that his sister is also married by the CAC and that they are no more the liability of the mother.

7. In the circumstances, the OA is dismissed as devoid of merit. No costs.


(A.K. BHANDARI)
MEMBER (ADMN.)