

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 27 of 2006**

**Jabalpur, this the 12<sup>th</sup> day of December, 2006**

**Hon'ble Dr. G.C. Srivastava, Vice Chairman**  
**Hon'ble Mr. M.K. Gupta, Judicial Member**

Vinod Kumar Yadav, aged about 33 years,  
S/o. Late Shri M.B. Yadav,  
R/o. A.C.C. Gram – Pardwara,  
Tahsil and District – Katni (MP). ..... **Applicant**

(By Advocate – Shri Neelesh Kotecha)

**V e r s u s**

1. Union of India, through the  
Ministry of Defence Production,  
New Delhi.
2. The General manager (Admin.),  
Ordinance Factory, Katni (MP).
3. The Works Manager (Admin.),  
Ordinance Factory, Katni (MP). ..... **Respondents**

(By Advocate – Shri S.K. Mishra on behalf of Shri R.S. Siddiqui)

**ORDER**

**By M.K. Gupta, Judicial Member –**

Validity of impugned communications dated 30.11.2000 and 25.11.2002 (A-8 & A-9 respectively), rejecting the request for appointment on compassionate ground is challenged in the present Original Application.

2. Admitted facts of the case are that applicant's father, Mahabir Yadav, Chargeman Grade-I died, while in service, in harness on 13<sup>th</sup> March, 2000 after putting 36 years of service. The applicant's mother made a request for appointment of the applicant on compassionate basis on 8<sup>th</sup> May, 2000 followed by various reminders, which was

rejected vide communication dated 30.11.2000. On an appeal filed, his request was reconsidered by the Board of officers for compassionate appointment and had been rejected vide communication dated 25.11.2002. The said communications are being impugned in the present proceedings. Shri Neelesh Kotecha, learned counsel contended that applicant's case had not been considered objectively in as much as one Shri Dukhi Lal, whose father Shri Shyam Lal died in the year 1999 almost in similar circumstances, had been appointed w.e.f. 2<sup>nd</sup> February, 2000. No reasons were assigned for rejecting his request for compassionate appointment despite the fact that the applicant's father had rendered 36 years of excellent and satisfactory service. The family is in penury condition and requires immediate assistance. The Labour Welfare Officer of the Ordnance Factory, Katni did not visit the family to ascertain the financial condition of the family. The genuine request of the applicant had not been paid any heed.

3. The respondents contested the claim stating that applicant along with his mother was called on 7<sup>th</sup> July, 2000 by the ALWC (C), Ordnance Factory, Katni for verification of the financial condition of the deceased employee and dependent family members. After ascertaining financial condition and verification of the dependent family members, the ALWC (C) submitted a report which has been considered objectively and compassionately by the Board of Officers, and based on the financial condition of the deceased employee and terminal benefits received by the family of the deceased employee. It was intimated that the applicant did not fulfill the norms of appointment on compassionate ground. The appeal was reconsidered and finding that the family is not under grave economic distress as the family had only two members, the request was rejected once again. The marks scored under various heads/aspects by the applicant is 33 on point scale of 100 marks, which fall below the bench mark. The request had been rejected after considering the full facts and circumstances of the case. Shri Dukhi Lal is the son of late Jethu Ram

and not of Shri Syam Lal, as alleged. He was appointed on compassionate basis w.e.f. 2<sup>nd</sup> August, 2000. Moreover, the said official has scored 71 marks in comparison to applicant who had scored only 33 marks. The family of the deceased employee had received Rs. 4,44,366/- as terminal benefits and family pension.

4. By filing rejoinder the applicant controverted the plea raised by the respondents and stated that family of the deceased employee did not consist of two members, rather five daughters and one son of late Shri Govind Yadav brother of deceased employee were also dependent on deceased father and this fact had been informed to LAO officer. It is unknown how the petitioner got 33 marks on point scale of 100 marks. The applicant is married and has two children. In the backdrop of the above, learned counsel contended that the family is in penury condition and the case for compassionate appointment has not been considered objectively.

5. We have heard learned counsel for the parties and perused the pleadings and material placed on record carefully.

6. It is well settled that the purpose of giving compassionate appointment to one of the eligible dependents is to render immediate employment assistance to the family which have been left in indigent circumstances. Moreover law is also settled that such appointment should be made against 5% quota of the vacancies meant for direct recruitment. In other words two conditions are primarily to be satisfied namely the family must be in indigent circumstances and the vacancies are available within 5% limit prescribed under various office memorandums issued from time to time on the said subject. It is not the intention or object of the office memorandum issued on the said subject that the compassionate appointment can be claimed as matter of right and further more it is not a source of appointment. The whole object of granting such relief is to enable the family to tide over the crises and to relieve the family from financial destitution and to help it to get over the emergency. In the facts and circumstances of

the case applicant's claim has been examined on more than one occasion and keeping in view about the size of the family and other relevant factors, applicant could secure only 33 points in the scale of 100 marks in comparison to a person who was appointed having scored 71 marks.

7. For the contention raised by the applicant that the family comprises not of two person but of 8 including the dependents of deceased brother's children, we are not convinced with the said contention for the reason that the term dependent family member has been defined under paragraph 2 of the DOPT OM dated 9<sup>th</sup> October, 1998 which means a) spouse, or b) son (including adopted son), or c) daughter (including adopted daughter); or d) brother or sister in the case of unmarried Government servant or who was wholly dependent on the Government servant at the time of his death in harness or retirement on medical grounds, as the case may be. In view of the definition or guideline provided under the scheme the children of deceased brother could not be either termed or included in the said definition of dependent family member.

8. As far as the contention that the request of the applicant was rejected by a non-speaking order is concerned, we are not satisfied with the said contention for the reason that the communication in question specifically states that his request for compassionate appointment was considered carefully and on examination of all aspects of the case, it cannot be accepted. When the communication states in specific that all aspects of the case had been considered objectively and compassionately and the reasons are so detailed and apparent in the reply filed also, it cannot be allow to contend or assumed that there has been non-application of mind in rejecting such request.

9. In our considered view the applicant has been treated fairly and objectively by the respondents and therefore the respondents' action

requires no interference in judicial review. Finding no merit the OA is dismissed. No costs.

(M.K. Gupta)  
Judicial Member

(Dr. G.C. Srivastava)  
Vice Chairman

"SA"

पूठांकन सं ओ/न्या.....जबलपुर, दि.....

पलित्तिपि अजो मित:-

- (1) सचिव, न्याय सदन, न्याय सदन, जबलपुर
- (2) अदालत के/न्याय सदन, जबलपुर
- (3) अदालत के/न्याय सदन, जबलपुर
- (4) अदालत के/न्याय सदन, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

उप सचिवद्वारा

Celest Kotelig  
J.K. Mishra  
AMW

288ms  
on 15/12/06  
A

15/12/06