

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 41 of 2005

Gwalior, this the 22nd day of November, 2005

Hon'ble Shri Madan Mohan, Judicial Member

1. Smt. Gopi Bai Yadav, aged 67 yrs.,
W/o. late Shankar Lal Yadav, H. No. 80,
Lalkurti, Cantt. Saugor (MP)-470001.
2. Vimal Kumar Yadav, aged 36 yrs.,
S/o. late Shankar Lal Yadav, 80,
Lalkurti, Cantt., Saugor (MP) - 470001. ... Applicants

(By Advocate - None)

V e r s u s

1. Union of India, thr' Secy.,
Ministry of Defence, New Delhi.
2. Engineer-in-Chief (E-in-Cs Br),
Army Hqrs., Kashmir House,
DHQ PO New Delhi - 110011.
3. Chief Engineer (MES), HQ
Jabalpur Zone, PB:84,
Cantt. Jabalpur, 482001.
4. Commander Works Engineer,
(MES), SI Lines, Sultania,
Bhopal (MP) - 462018.
5. Garrison Engineer (MES),
Cantt. Saugor (MP) 470001. ... Respondents

(By Advocate - Shri M. Chourasia)

O R D E R

By filing this Original Application the applicant
has claimed the following main relief :

"8.1 to quash the impugned order dated 27.8.2004
(A-1) and direct the respondent No. 3 to consider
the case and offer appointment to applicant No. 2
in terms of GOI policy of 1987 instead of Defence
Dept. policy of 2001."

2. The brief facts of the case are that the applicant
No. 1 is the widow of late Shankar Lal Yadav and applicant
No. 2 is the son of late Shankar Lal Yadav who was
an employee of the respondents Department and died on
16.3.1997 while in service. He left behind him the
applicants and one daughter and one son. The daughter of



deceased Government servant is married. The applicants belongs to OBC community. The applicant No.1 requested for compassionate appointment in favour of the applicant No. 2 on 17.4.1997 (Annexure A-3) and also executed an affidavit in favour of the applicant No. 2. The applicant No. 2 is qualified upto higher secondary and belongs to a poor class. The family of the deceased employee is residing in a Kutchha house i.e. one room measuring 10X15 sq. ft. on Nazool land. The case of the applicant No. 2 was found suitable for giving appointment on compassionate ground and was placed at Sr. No. 88 for post of Mazdoor in merit/waiting list dated 13.8.1999. Vide letter dated 27.8.2004 (Annexure A-1) it was informed that appointment on compassionate ground is not permissible on the grounds that terminal benefits is given to the applicant No. 1 and family pension is also being paid regularly, the family has its own house and the annual income of the family is Rs. 6,000/-. The application for compassionate appointment was moved within a period of three months from the date of death of the deceased employee and the applicant No. 2 is found fit and suitable according to the letter dated 13.9.1999 (Annexure A-8). Now the respondents have denied the appointment on the aforesaid grounds including the ground that only 5% limited vacancies are available for compassionate appointment. The case of the applicant No. 2 should have been considered according to the old policy in terms of the Government of India policy dated 30.6.1987, wherein the compassionate appointment can be made upto 20% plus 10% Ex-serviceman vacancies of Group-D posts. Thus, the applicants have filed the present Original Application.



3. None is present for the applicants. I dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

4. The learned counsel for the respondents argued that the deceased employee left behind him his widow and two sons aged 34 and 30 years. There was no liability after the death of the deceased employee. The terminal benefits of Rs. 1,10,265/- was paid to the applicant No. 1 and monthly family pension amounting to Rs. 1275/- plus DA is also paid regularly to the applicant No. 1. After the death of the Govt. servant the applicant No. 2 applied for compassionate appointment during July, 1997. It was duly considered by the Board of Officers and the competent authority has rejected the employment assistance on the ground of non-availability of sufficient vacancy within 5% quota for compassionate appointment. Accordingly the speaking order dated 27.8.2004 (Annexure R-2) was passed. The family of the applicants is not facing any financial crises. The scheme of compassionate appointment has been envisaged with the whole object of granting compassionate appointment to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial crisis and help it to get over the emergency. Hence, the applicant No. 2 could not be given the appointment on compassionate grounds. The family of the applicants have its own house and is also having annual income of Rs. 6,000/-. So far as the letter dated 13.8.1999 (Annexure A-8) is concerned by this order the applicant was not found fit/suitable for appointment as Mazdoor. He was kept at serial No. 88 and was informed that whenever vacancy would arise he shall be informed. The said policy of 30.6.1987 is amended

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by OM dated 26th September, 1995 issued by the Government of India and by which now the quota has been reduced from 20% to 5% only. Hence, the respondents have passed the impugned order in accordance with rules and law. Accordingly, the Original Application is liable to be dismissed.

5. After hearing the learned counsel for the respondents and on careful perusal of the pleadings and records, I find that the husband of the applicant No. 1 and father of the applicant No. 2 late Shankar Lal Yadav was the employee of the respondents Department. He died during the service on 16.3.1997. I have perused the letter dated 13th August, 1999 (Annexure A-8) in which it is mentioned that the name of the applicant No. 2 is at serial No. 88 of the waiting list and he shall be informed as and when the vacancy arises. The case of the applicant No. 2 is considered according to the policy which provides for 5% vacancies under direct recruitment quota for appointment on compassionate ground. I further find that the old policy of 30th June, 1987 is amended vide OM dated 26.9.1995 issued by the Government of India by which it has been decided that compassionate appointment can be made upto a maximum of 5% of vacancies falling under direct recruitment quota for any Group-C and Group-D posts. Hence, the respondents have rightly considered the case of the applicants in accordance with the aforesaid amendment dated 26.9.1995. The respondents have clearly mentioned in their return that more deserving candidates were available in comparison with the applicant and the name of the applicant was at serial No. 88 in the letter dated 13.8.1999 (Annexure A-8). This letter does not mean that the applicant No. 2 was finally appointed. I have perused the impugned order



and find that no irregularity or illegality has been committed by the respondents while passing the said order.

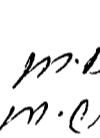
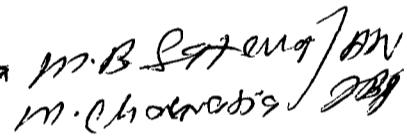
6. Considering all the facts and circumstances of the case, I am of the view that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.


(Madan Mohan)
Judicial Member

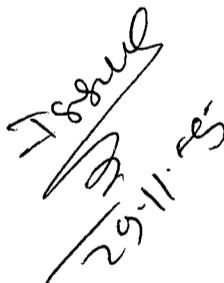
"SA" पृष्ठांकन सं. ओ/न्या.....जलालपुर, दि.....
परिलिखि दिनी दिनाः—

- (1) सचिव, उत्तर प्रदेश विधानसभा, जलालपुर
- (2) आवादक विधायी, उत्तर प्रदेश विधानसभा, जलालपुर
- (3) प्रत्ययी श्री/स्त्री/पुरुष/प्रत्ययी, उत्तर प्रदेश विधानसभा, जलालपुर
- (4) व्याधपता, टोका, जलालपुर

सूचना एवं आदेशक विधानसभा, जलालपुर

 M.B. Sengar / 20/11/85
 M.C. Chakrabarty / 20/11/85

अधिकारी
अधिकारी


T. Sengar
20/11/85