

Central Administrative Tribunal
Jabalpur Bench

OA No.184/05

Jabalpur, this the 4th day of July, 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

1. Smt.Madhu Bai
Widow of late Basant Kumar, H.S.I.
(Sr.Elect.) under GE, MES (East)
R/o 913-B, Ahir Mohalla
Gorakhpur, Jabalpur.
2. Santosh Kumar
Son of late Basant Kumar
Address as above. Applicants.

(By advocate Shri M.B.Saxena)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.
2. Chief Engineer (MES) HQ.
Jabalpur Zone
Jabalpur.
3. Commander Works Engineer (MES)
Supply Depot Road
Jabalpur.
4. Garrison Engineer, MES (East)
Near C.O.D., Ranjhi
Jabalpur. Respondents.

(By advocate Shri S.A.Dharmadhikari)

O R D E R

Bv Madan Mohan, Judicial Member



By filing this OA, the applicant has sought the following reliefs:

- (i) Direct the respondents to implement the orders dated 28.10.2003 passed in OA No.20/03 and in M.A.No.178/04 dated 22.3.2004 in view of the fact that the time of three months originally allowed and the extension of four months time granted by the Tribunal had already expired.
- (ii) Direct the respondents to reconsider the claim of the applicant in view of the policy dated 30.6.87.

2. The brief facts of the case are that the applicant No.1 is the widow and applicant No.2 is the son of late Basant Kumar who died in harness on 22.12.96. The widow of the deceased applied for compassionate appointment for her son – the applicant No.2 – vide application dated 26.2.97. Respondent No.2 rejected the request vide letter dated 19.8.02. Aggrieved by the rejection of her request, the applicant filed an OA No.20/2003 before the Tribunal. The Tribunal allowed the OA and directed the respondents to re-consider the claim of the applicant in the light of the policy of 30.6.1987 within three months. Thereafter, the respondents filed an MA No.178/2004 seeking time for implementation of the order and the Tribunal granted 4 months' time. When the respondents failed to comply with the order within the time granted, the applicant filed an MA No.57/05 seeking execution of the order. The Tribunal dismissed this MA on the ground of limitation. Hence the applicant has filed this OA with an MA for condonation of delay.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the applicant has moved an application for condonation of delay in filing the present OA. He further argued that the Tribunal had initially granted 4 months' time to the respondents to implement the order of the Tribunal, on expiry of the 3 months' time specified in the original order, but the respondents had failed to implement the directions. The Tribunal had dismissed the MA filed by



the applicant subsequently, on the ground of limitation. Hence the applicant is seeking the relief by filing the present OA with an MA for condonation of delay.

4. In reply, the learned counsel for the respondents argued that the deceased had left behind his widow, one son and two daughters. A sum of Rs.1,75,256/- had been paid to the applicant as terminal benefits and the family is in receipt of monthly pension of Rs.1275/- plus DA. The Board of Officers had considered the case of the applicant along with other candidates. While considering the case of the applicant, they had taken into consideration the various aspects such as the family size, the amount of terminal benefits paid to the deceased family, movable and immovable property etc. When it was noticed that there were more deserving cases and few vacancies available within the 5% quota, the case of Shri Santosh Kumar – applicant No.2 – could not be recommended as deserving. The counsel further argued that in this case, the respondents had rejected the claim of the applicant for compassionate appointment only after taking a balanced and objective assessment of the circumstances in the light of the instructions of the DoPT and the decision of the Board of Officers.

5. After hearing the learned counsel for both parties and perusing the records, I find that the respondents have considered the applicant's claim for compassionate appointment for her son but the claim has been rejected by them on the ground that there were more deserving candidates than that of his. The argument advanced on behalf of the respondents that compassionate appointment is not a matter of right seems to be correct. The Tribunal had dismissed the MA filed by the applicant for execution of the order of the Tribunal. The applicant has not introduced any new facts in the present OA. Hence the present OA is barred by res judicata. I have also perused the OM dated 26th September 1995 issued by the DoPT which is in modification of the earlier OM dated 30.6.1987.



6. Considering all facts and circumstances of the case, I am of the considered opinion that the OA has no merit and is liable to be dismissed. Accordingly the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member

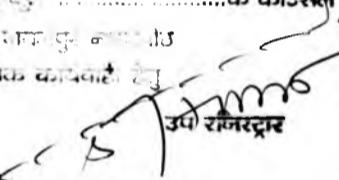
aa.

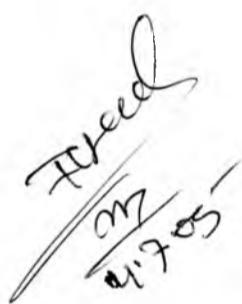
कृतांकन सं ओ/न्या.....जबलपुर, दि.....
पत्रिलिपि दागे दिना---

- (1) सचिव, उत्तर न्यायालय आ० इन्हिनियरिंग, जबलपुर
- (2) आवेदक श्री/प्रीति/पुष्पा.....तो वातावरण
- (3) प्रत्यार्थी श्री/प्रीति/पुष्पा.....के काउंसल
- (4) ग्रंथालय, योगीनगर, जबलपुर, जबलपुर

सूचना एवं आवश्यक दस्तावेज़ देने

m.B.1976/9 PR 2005
S.P. Dharmashikhar
PR 201


उपराज्यपाल


T.M. Patel