

Central Administrative Tribunal
Jabalpur Bench

OA No.560/05

Jabalpur, this the 6th day of December, 2005.

C O R A M

Hon'ble Mr. Madan Mohan, Judicial Member

Vijay Kumar
S/o Late Shri Ramesh Prasad
R/o House No.2198, Cherital Ward
In front of Dharam Kanta
Damoh Road, Jabalpur.

Applicant

(By advocate Shri Atul Nema)

Versus

1. Union of India through
its Secretary
Ministry of Defence
New Delhi.
2. The General Manager
Gun Carriage Factory
Jabalpur.

Respondents

(By advocate Shri A.P.Khare)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) Quash the impugned order dated 8.11.2002 passed by respondent No.2 whereby the claim for compassionate appointment of the applicant has been rejected.
 - (ii) Direct respondents No.2 to consider the applicant for appointment on compassionate ground in a sympathetic manner.
2. The brief facts of the case are that the applicant is son of late Shri Ramesh Prasad who died in harness on 1.6.2000. After the death of Ramesh Prasad, applicant, the elder son of the deceased, moved an



application for compassionate appointment. Thereafter as per the directions of the respondents, the applicant appeared before the respondents along with the required certificates and caste certificate. The applicant also furnished the police verification report and the latest photograph as required by respondent No.2. However, respondents No.2 rejected the claim of the applicant on the ground that compassionate appointment cannot be claimed as a right. Aggrieved by the rejection, the applicant has filed this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that it is not a case where applicant and his family members received a huge amount from respondent No.2. If that being so, then the claim of the applicant should have been considered by respondent No.2 in a sympathetic manner. The reference of the ratio of the judgment of the Supreme Court referred in the impugned order by respondent No.2 would not be applicable in the applicant's case. The respondents are adopting a pick and choose policy. If deceased's family members receive a handsome amount for their livelihood and that amount is sufficient to manage their affairs in that condition the claim for compassionate appointment can be rejected by the authority. In the present case, a very meager amount of Rs.1, 94,772/- has been received by the deceased's family. Learned counsel for the applicant further argued that according to 2001 Vol.II SCC p.259, delay if any caused on the part of the applicant in filing the OA should be ignored because the applicant was pursuing the matter before the respondents and they have rejected the claim by the impugned order.

4. In reply, learned counsel for the respondents argued that respondent No.3 had considered the case of the applicant along with other similarly placed individuals. Accordingly, the relevant screening committee declared the applicant fit for the post of labourer. After the receipt of the PVR (Police Verification Report) form, before putting up the letter of appointment, it was noticed that respondent No.2 had already exceeded the number of posts that needed to be filled up within the 5% quota meant for Group 'C' & 'D' posts under the



scheme of compassionate appointment. Since there was no vacancy, the case of the applicant was regretted. Moreover, the applicant has been keeping silent for 3 long years and hence the present OA is barred by limitation.

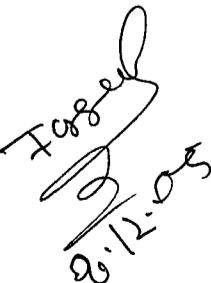
5. After hearing learned counsel for both parties and perusing the records, I find that the case of the applicant was examined by the respondents and rejected on the ground that there was no vacancy under the 5% quota meant for Group 'C'/'D' posts. The argument on behalf of the applicant that such a quota is not fixed in the case of Group 'C'/'D' is not legally tenable. The respondents have contended that the case of the applicant was duly considered and examined along with other similarly placed individuals but due to limited number of vacancies under the 5% direct recruitment quota for compassionate appointment, there was no vacancy and hence the case of the applicant was regretted and accordingly the applicant was intimated vide impugned A1 order.

6. Considering all facts and circumstances of the case, the OA has no merit. Accordingly, the OA is dismissed. No costs.


(Madan Mohan)
Judicial member

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मुख्यमंत्री का दस्तावेज़ दिल्ली, दिनांक 20.12.2005
प्रमाणित करने वाले कार्यालय का दस्तावेज़ दिनांक 20.12.2005
(1) सर्विस विभाग
(2) वित्त विभाग
(3) विद्या विभाग
(4) विधायिका
सूचना एवं विवरण दिनांक 20.12.2005
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