

Central Administrative Tribunal  
Jabalpur Bench

OA No.8/05

Jabalpur, this the 4<sup>th</sup> day of July, 2005.

C O R A M

Hon'ble Mr. Madan Mohan, Judicial Member

Pooran Lal Choudhari  
Son of Shri Dasailal Choudhari  
R/o H.no.2515 in front of Perfect Patry  
Polipathar, Gwarighat Road  
Jabalpur (MP)

Applicant

(By advocate Shri Bhoop Singh)

Versus

1. Union of India through  
Secretary, Ministry of Defence (Production)  
New Delhi,

2. The Director/Chairman  
Ordnance Factories Board  
10-A, Shaheed Khudiram Bose Road  
Kolkata (WB).

3. The General Manager  
Gun Carriage Factory  
Jabalpur.

Respondents.

(By advocate Shri S.K.Mishra)

O R D E R

Bv Madan Mohan, Judicial Member

By filing this OA, the applicant has sought a direction to the respondents to consider him for appointment on compassionate grounds.

2. The brief facts of the case are that the father of the applicant Shri Dasai Choudhary while serving as Fitter under respondent No.3 died in harness on 31.3.99. After the death of the father of the



applicant, the wife of the deceased moved an application for compassionate appointment for his only son, the applicant. An interview was conducted in the year 2000-2001 and the applicant, as directed, produced all relevant documents. Police verification was also done in which nothing adverse was found. The applicant was intimated that appointment order would be issued soon. When the applicant heard nothing for more than one year, he submitted an application-dated 27.9.04 to the respondents. That application is pending with the respondents. It is alleged in the OA that the applicant has been discriminated against because junior persons were appointed and they joined duty in October 2004. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the father of the applicant was suffering from TB and the family had to spend a huge amount for his treatment. After the death of Dasai Choudhary, the respondents had an enquiry conducted by the Labour Officer of the Factory regarding the family condition and the Labour Officer certified it to be indigent. He further argued that the respondents had adopted the policy of pick and choose in the matter of consideration for appointment on compassionate ground because they had appointed new persons ignoring the claim of the applicant who complied with all formalities. The action of the respondents is, therefore, discriminatory and malafide.

4. In reply, the learned counsel for the respondents argued that respondent No.3 had considered the case of the applicant along with other similarly placed individuals. The screening committee declared the applicant fit for the post of Labour and accordingly police verification forms were issued on 2.3.2002. After the receipt of PVR forms, it was noticed that respondent No.3 had already exceeded the number of posts that need to be filled up within the 5% quota meant for Group 'C' and 'D' under the scheme of Compassionate appointment. Since there was no vacancy, the case of the applicant



was regretted. He was accordingly intimated vide letter-dated 23.10.02. The applicant has approached the Tribunal after 3 years and the very fact that the family has been able to sustain without a government employment proves that the family could survive well without the same. He further argued that there was no provision for relaxing the ceiling limit of 5% quota meant for compassionate appointment. Hence the impugned order is in accordance with rules and law.

5. After hearing the learned counsel for the parties and perusing the records, I find that the respondents have admitted that the relevant screening committee had declared the applicant fit for the post of Labour and accordingly police verification forms were sent to him on 2.3.2002. On receipt of the PVR, it was noticed that there was no vacancy on which the applicant could have been appointed. The vacancy is limited to 5% of direct recruitment. I have perused the order of the Tribunal dated 9<sup>th</sup> May 2005 passed in OA No.12/05. The facts in that case are identical to the present OA. In the present OA, the applicant has mentioned that earlier he was found fit by the respondents and nothing adverse was against him in the police verification report. Hence the applicant was not at all at fault. It was the duty of the respondents to keep one post vacant for successful candidates but they have failed in this regard and they have not given any reasonable explanation as to why they earlier filled up the vacancy while the applicant was found fit by the screening committee and nothing adverse was found against him. Merely providing terminal benefits and family pension is not a sufficient ground for rejection of compassionate appointment.

6. Considering all facts and circumstances of the case, I am of the considered opinion that the impugned order dated 27.8.04 is liable to be quashed and it is quashed and set aside. Respondents are directed to consider the case of the applicant for compassionate appointment

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within a period of three months from the date of receipt of a copy of this order. No costs.

  
(Madan Mohan)  
Judicial Member

aa.

प्रांतिकन सं औ/न्या प्रतिलिपि द्वारा दिल्ली विधायिका, जबलपुर, दि.....  
 (1) सचिव, उत्तर प्रदेश विधायिका, जबलपुर  
 (2) अधिकारी, विधायिका, जबलपुर के विभाग  
 (3) विधायिका, विधायिका, जबलपुर  
 (4) विधायिका, विधायिका, जबलपुर  
 सूचना एवं आवश्यक विवरणों के लिए  
 अपरिवर्तनीय रूप से रजिस्ट्रेशन

*B.L.D.P 16/2/94  
 D2/203  
 I.K. Mishra  
 DW/21*

*Approved  
 V.K. S. 54*