

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JA BALPUR

Original Application No. 1125 of 2005

Jabalpur this the 24th day of March, 2006.

Hon'ble Dr.G.C.Srivastava,Vice Chairman
Hon'ble Mr. G.Shanthappa, Judicial Member

Pradeep Singh Rajput, S/o Shri Hori Lal Rajput,
Aged about 30 years, Residence of 312/1,
Vaidnathan Nagar, GCF State, Jabalpur (MP) **Applicant**

(By Advocate – Shri Bhoop Singh)

V E R S U S

1.The Union of India through its Secretary,
Ministry of Defence Production Department, New Delhi.

2. The Chairman, Ordinance Factory Board,
10-A, Sahid khudiram Bose Marg, Kolkatta (WB).

3. The General Manager, Gun Carriage Factory,
Jabalpur (MP) . **- Respondents**

(By Advocate – Shri P.Shankaran)

O R D E R(Oral)

By G.Shanthappa, JM.-

By filing this Original Application under Section 19 of the
Administrative Tribunals Act,1985, the applicant has sought the
following main relief :-

“(i)...direct the respondent no.3 to consider the case of
applicant for compassionate appointment.

(ii)..to direct the respondent to give the compassionate
appointment after the date of interview and keep the
applicant above the junior person who have been appointed
and also give all consequential benefits to the applicant”.



2. The above application is filed by the son of late Shri Hori Lal Rajput. The father of the applicant was working under the respondent no.3 as Fitter and he died in harness on 7.5.1999 after rendering 25 years of service, leaving behind the widow and children including the applicant. The learned counsel for the applicant during the course of arguments has submitted that subsequent to the death of the father of the applicant, the mother of the applicant died on 28.10.2005. His younger brother and younger sister also died. As of now, the applicant and his younger brother are only the legal heirs of the deceased-employee. The applicant submitted his application for compassionate appointment. The said application was considered and rejected. The applicant approached this Tribunal for a direction to consider his request for compassionate appointment, by way of OA 100 of 2005, which was disposed of vide order dated 28.6.2005 (Annexure-A-7) by directing the respondents to consider the case of the applicant for compassionate appointment within three months from the date of receipt of that order. Subsequent to the above direction of this Tribunal, the respondents have issued the impugned order dated 1.10.2005 (Annexure-A-8) by assigning the reason and also the marks awarded to the applicant. They have referred the judgment of the Hon'ble Apex Court and also the instructions on the subject. We consider the impugned order is a reasoned and considered order. In the last para of the impugned order, the respondents have stated that the case of the applicant was considered along with other 46 eligible candidates, who were more indigent than the applicant. The grievance of the applicant is also more than six years old, which is against the rule laid down by the DOPT vide its order dt.05/05/2003 which prescribes a maximum of 03 year limit for such consideration. Accordingly, they have rejected the request of the applicant.

3. The applicant submitted one more representation as per Annexure-A-9 dated 11.11.2005. Since there was no reply, he has



approached this Tribunal on the ground that the impugned order is arbitrary, illegal and against the OM issued by the DOPT.

4. Per contra, the respondents have filed their detailed reply supporting their action. The respondents have considered the case of the applicant and a communication was given to the applicant declaring the applicant fit for the post of Labourer and accordingly the police verification forms were issued on 2.3.2002. It was noticed that the respondent no.3 had already exceeded the number of posts that needs to be filled up within the 5% post meant for Group-C and D posts under the scheme of compassionate appointment. Since there was no vacancy, the applicant was accordingly intimated vide letter dated 18.10.2002. Aggrieved by the said order, the applicant had filed OA 100 of 2005, which was disposed of vide order dated 28.6.2005 with a direction to the respondents to consider the case of the applicant. Accordingly, the applicant's case was again considered. The applicant has not made out a case for grant of relief, in view of the judgment of the Hon'ble Apex Court in the case of Union of India Vs. Joginder Sharma, 2002 SCC (L&S). As per OM dated 5.5.2003 there exists no provision for entertaining any claim for compassionate appointment beyond a period of three years under any circumstances. Accordingly, the case of the applicant cannot be considered, since it is six years old. They have already considered the case of the applicant by applying the DOPT's OM dated 9.10.1998 and Ministry of Defence OM dated 9.3.2001 and rejected the application of the applicant. Since the applicant has not made out any case, the OA is liable to be dismissed.

5. We have heard Shri Bhoop Singh learned counsel of the applicant and Shri P. Shankaran, learned counsel for the respondents.

6. The admitted facts from either side are that the father of the applicant died on 7.5.1999, leaving behind his widow, three sons and daughter. While arguing the case, the learned counsel of the



applicant submitted that the applicant's mother, younger brother and younger sister died subsequent to the death of his father. The alive legal heirs are the applicant and his younger brother. In his representation as per Annexure-A-9 he has not mentioned about the sister. The applicant had challenged earlier the order of rejection in OA 100 of 2005. On the direction of the Tribunal, the respondents have passed their reasoned and considered order as per Annexure-A-8 dated 1.10.2005. We have carefully examined the impugned order. We do not find any illegality or irregularity while rejecting the representation of the applicant.

7. The last para of the impugned order says that the respondents have considered the case of the applicant by applying the DOPT's instructions dated 5.5.2003. Since the case of the applicant is more than six years old, as per the said OM the case of the applicant cannot be considered and accordingly they have rejected his case. We have carefully examined the OM dated 5.5.2003. As per para 2 & 3 of the said OM the application has to be considered on three consecutive years. If the applicant has ~~not~~ fulfilled the criteria as referred in the OM, ^{but has not been appointed for want of vacancy} then he has to be considered for second year and one more year. Paragraphs 2 & 3 of the above OM dated 5.5.2003 are reproduced below:

"2. It has, therefore, been decided that if compassionate appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for compassionate appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year.

3. The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the

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first and the second year. After three years, if Compassionate Appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again".

8. Since the applicant has one more chance, his case can be considered along with the applicants who are waiting for appointment on compassionate grounds. Since the impugned order is an administrative order, we are not inclined to quash the order. Accordingly, we direct the respondents to consider the case of the applicant along with others, as per OM dated 5.5.2003 and issue necessary orders.

9. With the above direction, the OA is disposed of no costs.


(G. Shanthappa)
Judicial Member


(Dr. G. C. Srivastava)
Vice Chairman

rkv


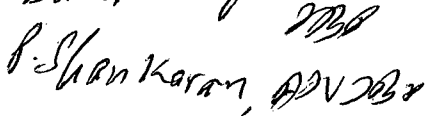
पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....


पतिलिपि अग्रे दितः—

- (1) सचिव, उच्च न्यायालय दार एम्प्लॉयेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्ययी श्री/श्रीमती/शु.....के काउंसल
- (4) संचालक, को.प्र.अ., जबलपुर ज. न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार


Bhoop Singh, ADV

P. Shon Karan, ADV


30/3/06