

(V)

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 1159 of 2005**

**Jabalpur, this the 23<sup>rd</sup> day of November, 2006**

**Hon'ble Shri A.K. Gaur, Judicial Member**

Smt. Urmila Bai Kosta,  
Wife of late Shri Prahlad Kumar  
Kosta, aged about 39 years,  
Occupation House Wife Residence of  
House No. 104, Ekta Nagar,  
Ukhri Road, Behind Killbill School,  
Jabalpur (MP).

..... **Applicant**

(By Advocate – Shri Bhoop Singh Patel)

**V E R S U S**

1. The Union of India, through its  
Secretary, Defence Production  
Department, New Delhi.
2. The Chairman, Ordinance  
Factory Board, 10-Sahid Khudiram  
Bose Marg, Kolkata.
3. The General Manager,  
Gun Carriage Factory,  
Jabalpur (MP).

..... **Respondents**

(By Advocate – Shri S.K. Mishra on behalf of Shri R.S. Siddiqui)

**O R D E R (Oral)**

Heard the learned counsel for the applicant and the learned  
counsel for the respondents.

2. The brief facts of the case are that consequent to the death of  
late Prahlad Kosta, husband of the applicant on 29.12.2002, the  
applicant applied for compassionate appointment on 8.4.2003. The  
Deputy Welfare Commissioner under respondent No. 3 conducted a  
family enquiry to ascertain the family status of the applicant. The case  
was examined by a duly constituted screening committee on five

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occasions along with other similarly placed individuals. Various guidelines and OMs were taken into consideration while considering the case of the applicant for grant of compassionate appointment. For granting compassionate appointment to the employees dependents, the Ministry of Personnel, Public Grievances and Pension vide its memorandum dated 30.6.1987 and Ministry of Defence ID dated 2.11.1993 has consolidated the various instructions and has crystallized as to whom this scheme should be made applicable. A 100 point grading scale has been formulated for assessing similarly placed individuals and for comparatively balanced objective assessment. This is done in order to ascertain the indigent and the most deserving cases. Parameters like family pension, terminal benefits, movable/immovable property, number of dependents, unmarried daughters, minor children and left over service are taken into consideration. On marking the applicant had obtained only 49 marks in the 100 point grade scale. According to the instructions of the Government compassionate appointment can be made upto a maximum of 5% vacancies falling under direct recruitment quota in any Group C and D posts. The Hon'ble Supreme Court in the case of Union of India Versus Joginder Sharma decided in the year 2002 has clearly held that "Compassionate appointment – Judicial interference with administrative discretion – Limit or ceiling of 5 per cent of the vacancies arising provided in Scheme – Denial of compassionate appointment on ground that quota reserved therefore under the scheme already exhausted and that Department of Personnel and Training declined to relax the regulation relating to the ceiling of 5% - Held, question of relaxing the ceiling limit of 5% being in the discretion of the authority concerned which is purely administrative and not statutory in nature, tribunal or court cannot compel the authority to accord relaxation".

3. Mr. Bhoop Singh learned counsel for the applicant has cited decisions of the Hon'ble Supreme Court in the case of Govind Prakash Verma Vs. Life Insurance Corporation of India & Ors., 2005

SCC (L&S) 590 and in Syed Khadim Hussain Vs. State of Bihar & Ors., 2006 SCC (L&S) 1681. These cases cited by the learned counsel for the applicant are not applicable to the facts of the present case and are distinguishable. The Hon'ble Supreme Court in the case of State of J&K & Ors. Vs. Sajad Ahmed Mir, 2006 SCC (L&S) 1195 held that such appointment is an exception to general rule that appointment to public office should be made on the basis of competitive merits – Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.

4. In view of the aforesaid discussion, I am firmly of the view that the applicant has not been able to make out any case and accordingly the Original Application is dismissed. No order as to costs.

*A.K. Gaur*  
(A.K. Gaur)  
Judicial Member

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पृष्ठोक्त सं ओ/न्या.....जबलपुर, दि.....  
पत्रिलिपि आगे भिजा -  
(1) सचिव, उच्च न्यायालय, जबलपुर  
(2) आचार्य, जबलपुर ..... के काउंसल  
(3) प्रत्यक्षी, जबलपुर ..... के काउंसल  
(4) कांथवाल, जबलपुर, जल २०००  
सूचना एवं आवश्यक कार्रवाई हेतु  
उप रजिस्ट्रार

*Bhool Singh Patel*  
AR DBD  
*R.S. Sidhu*  
AR DBD

*Issued*  
*on 30/11/01*  
*by*