

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

Original Application No. 1190 of 2005

Jabalpur, this the 4th day of January, 2006

Hon'ble Mr.Justice P.K.Sinha, Vice Chairman

Ashish Kumar Thakur,
Son late Shri Kishor Singh Thakur
Aged about 26 years,
R/o 1674, Ram Krishna Colony,
Bai Ka Bagicha, Jabalpur (MP)

-Applicant

(By Advocate – Shri S.K.Garg on behalf of Shri R.L.Gupta)

V e r s u s

1. Union of India, through the Secretary,
Ministry of Defence, South Block, New Delhi.
2. Senior General Manager, Gun Carriage Factory,
Jabalpur, District Jabalpur (MP).
3. Smt.Ranu Jaiswal, wife of late Shri Kamlesh K.Jaiswal,
Labourer in Establishment Section, Gun Carriage Factory,
Jabalpur through Scnior Gencral Manager, Gun Carriage
Factory Jabalpur, District Jabalpur (MP). **-Respondents**

O R D E R

The applicant Ashish Kumar Thakur has come up for quashing of Annexure-A-1 which is the reasoned order passed by the competent authority in pursuant to a direction given by this Tribunal while disposing of OA No.904 of 2003 which earlier was brought by the same applicant with the same relief. In Annexure-A-1 the prayer of the applicant to be appointed on compassionate ground has been rejected, which prayer had come up on account of death of the mother of the applicant Smt.Shanti Bai Singh – an employee under the respondents, who had expired in harness on 22.9.2001. In the earlier OA, the matter was referred back to the respondents to reconsider the prayer and to pass a speaking order.

2. The learned counsel for the applicant has been heard. Since this Tribunal does not find that this application has any merit, this application is being disposed of at the stage of admission, for the reasons mentioned below.

3. Earlier respondent no.2 had rejected the application of the applicant for compassionate appointment vide order dated 3.3.2003, where after this applicant came up before this Tribunal impugning that order in the OA aforesaid and, after hearing, the impugned order was quashed with a direction to the respondents as already mentioned (Annexure-A-2).

4. The ground as mentioned in the application and as urged in the course of submission was that the prayer was rejected on the ground of availability of lesser number of posts earmarked for appointment on compassionate ground, as also that the applicant was twice evaluated, for the first time when earlier his prayer was rejected and, the second time after receipt of the order of this Tribunal and, under a system formulated in DOPT's Office Memorandum No.14014/6/1994-Estt(D) dated 9.10.1998, as mentioned in the speaking order at Annexure-A-1, the applicant had obtained 64 and 65 marks relating his eligibility, respectively, which were lesser than the marks received by many other candidates. It has further been mentioned in the application that it came to the knowledge of the petitioner that marks were allotted arbitrarily by the selection committee so much so that they used to allot higher marks to the candidates whom they wanted to appoint and this way selected those candidates for appointment. However, the *learned counsel in course of arguments*, as also mentioned in this application, could point out only one such case who, in the opinion of the applicant was selected by allotting her inflated marking, namely, private respondent no.3 Smt.Ranu Jaiswal. The allegation is that respondent no.2 had favoured her and though she had lesser social and personal responsibilities, she was selected. The learned counsel also submitted that an enquiry into the matter

may also be held to find out as to whether or not what had come to the knowledge of the applicant, relating to selective marking, was correct.

5. In the speaking order at Annexure-A-1 it has been mentioned that the aforesaid Office Memorandum dated 9.10.1998 had consolidated various instructions pertaining to the matter of compassionate appointment and had crystallized the point as to whom the scheme should be made applicable. As per the instructions, 100-point grading scale had been formulated under various parameters for assessing the candidates who had come up for appointment on compassionate basis in order to find out as to who deserved to be granted that privilege most. As per Annexure-A-1 such cases were scrutinized and earlier the applicant had obtained 64 marks, but after the order of this Tribunal was received and when the applicant filed a fresh application, the Deputy Labour Welfare Commissioner of the Office of respondents conducted a fresh family enquiry relating to financial status and dependents, from which it appeared that apart from the applicant, he had one dependent unmarried sister and one married dependent sister. The fact that pension had been stopped with effect from 30.3.2004 was also considered and this time the applicant received 65 grading marks.

6. As per Annexure-A-1 compassionate appointment could be made up to a maximum of 5% of the total vacancies in Group-C or Group-D posts. The matter was considered afresh by the prescribed committee on 7.10.2004, at which time there was only one vacancy available for being filled up under this scheme. Annexure-A-1 has given a chart showing that the applicant, as per marks, was at 15th position and there were as many as five candidates in between him and Smt.Ranu Jaiswal, the respondent no.3, who all had secured more marks than the applicant. Therefore, even if it be found by a more detailed enquiry that some marks were allotted to respondent no.3 which ought not to have been allotted to her, that is not going

to help the applicant as there were more candidates above him who had been allotted more marks than the applicant against whom there is no specific allegation of wrong marking. Therefore, any exercise to find out as to whether or not respondent no.3 was awarded marks correctly would be an exercise in futility in so far as grant of relief in this application is concerned. So far as the prayer to make a detailed enquiry in all the cases relating to alleged higher allotment of marks is concerned, without the applicant providing cogent materials for such detailed enquiry, that would amount only to witch-hunting and cannot be resorted to without concrete grounds made available to the Tribunal in support of such a contention.

7. The speaking order has discussed judicial cases also and has quoted from those, as well the directions contained in Office memorandum, such as the case of Umesh Kumar Nagpal Vs. Haryana Government, JT 1994 (3) SC 525, and Office memorandum dated 5.5.2003 (as per which O.M. the case for compassionate appointment could not pend beyond a period of three years).

8. In view of what have been noticed above, in my opinion this application is devoid of any merit and not fit to be admitted. Dismissed, accordingly.



(P.K.Sinha)
Vice Chairman

rkv

प्राप्तिकरण सं. ओ/व्या..... जालानुर, दि.....

प्रधानमंत्री कार्यालय, दिल्ली

- (1) रामेश्वर मुख्यमंत्री
- (2) विजय गोप्ता
- (3) रमेश गुप्ता
- (4) रमेश गुप्ता

R.L. Gupta
R.D. Oberoi

रमेश गुप्ता

Tagged
6.1.06