

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 57 of 2004

Jabalpur, this the 26th day of August, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Bharatlal Shivhare, son of late
Kunjilal Shivhare, aged about 24
years, Occupation-Nothing, Resident of
2234, Radha Krishna Mandir Road, Ranjhi
Basti, Jabalpur.

... Applicant

(By Advocate - Shri Manoj K. Sanghi)

V e r s u s

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

2. The Chief Engineer, Garrison Engineer,
Jabalpur Zone, Jabalpur.

... Respondents

(By Advocate - Shri P. Shankaran on behalf of Shri S.A.
Dharmadhikari)

O R D E R (Oral)

By filing this Original Application the applicant has
claimed the following main relief :

"(I) That, the respondents may kindly be directed to
consider the case of the applicant and proper weightage
be given to the case of the applicant with all respect
and provide suitable job as early as possible."

2. The brief facts of the case are that the applicant's
father late Kunjilal Shivhare was a permanent employee
under the control of respondents and he was posted as Mate
in the office of respondent No. 1 at Jabalpur. In the
family of late Kunjilal there were total five members
living with him as dependents. The applicant is the elder
son of the deceased employee and three other sons are minor
and two of them are studying in B.E. at Govt. Engineering
College, Jabalpur. The father of the applicant died during
service period due to heart attack at Jabalpur on 21.9.97.
The applicant and other family members including the mother
of the applicant were fully dependent on the income of late



deceased employee. The applicant and other family members have no source of income. The widow of the deceased employee is getting family pension of Rs. 1720/- per month. This is not sufficient to maintain the family. At the time of death of the father of the applicant, the applicant was minor and the wife of the deceased employee being an uneducated lady could not apply for compassionate appointment although they were in great need of immediate financial assistance. Though immediate financial assistance was given by the respondents by way of paying the retiral dues, the same was spent on the treatment of the deceased Government servant. Some money was also spent towards the higher education of the two sons of the deceased. The mother of the applicant made a request to the respondents on 31.5.2002 to provide compassionate appointment looking to her liabilities. Her request was considered by the respondents and vide letter dated 27.5.2002, the applicant has been informed that his name is mentioned at merit No. 71. The respondents have not considered his case seriously and they have further failed to consider his case in view of the Government circular dated 9.3.2001. Although the respondents found the case of the applicant really deserving one for appointment but only 72 marks were given to him, without giving proper weightage to the dependency, size of family and liabilities, amount of payment etc. and wrongly considered relative merit of other cases alongwith the case of the applicant. Hence, this OA is filed.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that the father of the applicant died during his service on 21.9.97. He left behind him five members as his dependents. His two



sons are studying in B.E. at Govt. Engineering College, Jabalpur. The widow of the deceased employee is getting family pension of Rs. 1720/- p.m. only, which is not sufficient to maintain the family. The case of the applicant has not been considered in its true spirit and also in view of the Government circular dated 9.3.2001. Although the name of the applicant found place at Sr. No. 71 of the merit list for appointment on compassionate ground since long back in the year 2002, but till today appointment has not been given to the applicant. The applicant have big liability to provide better education to the dependents of deceased employee and also liability to provide financial assistance to the dependents but as he has no source of income he is being failed to provide the assistance to the dependents of the deceased employee.

5. In reply the learned counsel for the respondents argued that the case of the applicant was recommended and the same was put before the Board and after taking into account each and every aspect of the matter alongwith other candidates, the applicant obtained only 72% of the marks and the case of the applicant was placed at Sl. No. 71 of the list. The applicant could not be appointed due to the fact that there were more deserving cases who have secured more marks than the applicant was given and the appointment is to be made within the 5% quota of direct recruitment vacancies. The applicant will be given appointment as and when the vacancy arises strictly in accordance with merit/seniority list. He has drawn my attention towards Annexure A-5 dated 29th June, 2002 in which it is mentioned that the appointment will be given to the applicant only as and when the vacancies arises strictly as per seniority. The representation of the applicant is not rejected by the respondents so far. It is



still under consideration and as and when the vacancies shall arise, it shall be again considered.

6. After hearing the learned counsel for the parties and on careful perusal of the records I find that the respondents have not rejected the claim of the applicant for appointment on compassionate ground so far. They are still considering the case of the applicant and as stated in the reply and as argued by the respondents, as and when the vacancy arises the appointment of the applicant will be considered by them strictly as per the seniority and as per the rules. Hence, I direct the respondents to consider the case of the applicant for appointment on compassionate ground strictly in accordance with the seniority and as per the existing rules on the subject, as and when the vacancy arises for compassionate appointment.

7. In view of the aforesaid observation, this Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

"SA"

पूराकाल सं ओ/व्य.....जबलपुर, दि.....

परिमित अथवा अनिमित्त:-

- (1) सचिव, उच्च न्यायालय नगर एसोसिएशन, जबलपुर
- (2) अध्यक्ष श्री/श्रीमती/शु.....के काउंसल Mr. Sanghi
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल SH Dharmvir Kumar
- (4) नगरपालिका, कोटवाल, जबलपुर न्यायाधीश
सचवा एवं आवश्यक कार्यवाही हेतु

जबलपुर

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