

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 103 of 2004

Indore this the 18th day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Arvind Kumar Tindolia, S/o. late Shri
P.L. Tindolia, aged 31 years, Occupation-
Unemployed, R/o. Goshpura No. 2,
Hazira, Gwalior, MP.

.... Applicant

(By Advocate – Shri S.C. Sharma)

V e r s u s

1. The Union of India, through - The
Secretary, Ministry of Defence,
Govt. of India, New Delhi.
2. Quarter Master General, Army Head
Quarter, New Delhi.
3. Dy. Director General, Military Farms,
Army Head Quarter, WB.III, R.K. Puram,
New Delhi.
4. The Officer Incharge,
Military Farms, Agra.
5. Station Commander, Agra.

.... Respondents

(By Advocate – Shri P.N. Kelkar)

O R D E R

By Madan Mohan, Judicial Member -

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

“A. the respondents be directed to give appointment on compassionate ground to the applicant as his case was already found fit and the respondents given the appointment. In alternative



it is also prayed that the respondents be directed to consider the case of applicant for giving compassionate appointment under the provisions of Circular dated 5.5.2003 and the orders of the Hon'ble Tribunal contained in Annexure A-18."

2. The brief facts of the case are that the father of the applicant late P.L. Tindolia was under employment of the respondents as UDC. He expired while in service on 10.7.2001. He left behind him his widow, three sons and one daughter. He left no moveable or immoveable property. The mother of the applicant received the terminal benefits of GPF, Gratuity, CGEIS, encashment of leave etc. from the respondents. The applicant's family is very poor and is having six family members and there is no bread earner in the family. All of them are depending upon the pension of Rs. 4,300/- received by the widow of the deceased Government servant. The applicant is a MA passed. He has also obtained a certificate from NIIT for participating in computer course and he is also having a diploma from NICT. The mother of the applicant has submitted an application for compassionate appointment to the authorities concerned. Vide letter dated 13.2.2002 of the respondents the mother of the applicant was informed that the case of the applicant for compassionate appointment was examined and the concerned authority has granted approval for providing the employment assistance to the applicant. However, due to non-availability of vacancy in the grade of LDC his name is kept in the waiting list and his case will be considered as per seniority. His name shall be deleted after lapse of one year if the same does not come in the consideration zone. In the meantime the Director General, MF, New Delhi by verbal orders dated 11.5.2002 appointed the applicant on the post of Computer Operator in the Military Farm, Rajouri. But later his duty was discharged on 16.6.2003 by verbal order. The mother of the applicant submitted another application on behalf of the applicant to the concerned authority but no intimation was given. The case of the applicant is not considered in accordance with circular dated 5.5.2003. The applicant belongs to SC community and on account of poor



financial condition his family is starving very much. Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that vide letter dated 13.2.2002 it was informed by the respondents that the case of the applicant was considered and the DDGMT has accorded approval in principle for providing employment assistance to the applicant. Hence, the applicant was found fit and he was given appointment by the respondents. The applicant was also issued a certificate dated 16th June, 2003 stating that the applicant is working as Computer Operator at this office of Military Farm, Rajouri since last one year during the year 2002-03. For this appointment no written order was issued to the applicant and when his services were discontinued at that time also no order of termination was passed in writing by the respondents. The case of the applicant is not considered by the respondents in accordance with OM dated 5.5.2003 as the case of the applicant was found fit vide letter dated 13.2.2002. In case there are no vacancies at that time the respondents should have reviewed the claim of the applicant for further 3 years and they should not have rejected the same. Hence, this Original Application should be allowed.

5. In reply the learned counsel for the respondents argued that the letter dated 13.2.2002 (Annexure A-13) is not an appointment letter issued in favour of the applicant. In this letter it is clearly mentioned that the authority concerned has accorded approval in providing employment assistance to the applicant. However, due to non-availability of the vacancies in the grade of LDC under the relevant quota his name was kept in the waiting list and it was also mentioned in this order that the case of the applicant will be considered as per seniority and his name will be deleted after lapse of one year. When no vacancy arose, hence, his name was deleted. The contention of the applicant regarding his appointment as



Computer Operation is absolutely concocted and false. The letter dated 16th June, 2003 is mere a certificate and it is neither any appointment order nor any termination order. The applicant cannot take any favour on the basis of this letter. Hence, the action of the respondent is perfectly legal and justified and this OA is liable to be dismissed.

6. After hearing the learned counsel for both the parties and on careful perusal of the pleadings and records, we find that according to the letter dated 13.2.2002 (Annexure A-13) the respondents have mentioned that the case for compassionate appointment in respect of the applicant was examined and the DDGMF has accorded approval in principle for providing employment assistance to the applicant. However, due to non-availability of the vacancy in the grade of LDC under the relevant quota his name is to be kept in the waiting list and his case will be considered as per his seniority. His name will be deleted as per DOP&T OM dated 3rd December, 1999 after lapse of one year if the case does not come in the consideration zone. The respondents have subsequently mentioned in their return that after the lapse of one year the name of the applicant stood deleted automatically since the case of the applicant did not come in the consideration zone within the aforesaid prescribed period. We have perused the OM dated 5.5.2003 issued by the Government of India, Ministry of Personnel, Public and Grievances and Pensions, Department of Personnel and Training. In its paragraph 3 it is mentioned that "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 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". According to this OM the respondents are expected to consider the case for compassionate appointment for 3 years subject to the condition that the prescribed committee has reviewed and certified the



penurious condition of the applicant at the end of first and second year. After three year if compassionate appointment is not possible to be offered to the applicant his case then will be finally closed and will not be considered again. The respondents in the present case has only considered the case of the applicant for one year according to the OM dated 13th December, 1999 as is mentioned in the impugned order dated 13.2.2002 (Annexure A-13). The case of the applicant has not been considered as per the OM dated 5.5.2003. The respondents should have considered the case of the applicant for three years.

7. Considering all the facts and circumstances of the case we are of the considered view that the respondents should be directed to reconsider the case of the applicant in accordance with the OM dated 5.5.2003 within a period of three months from the date of receipt of a copy of this order by passing a speaking, detailed and reasoned order. We do so accordingly.

8. In view of the aforesaid, the Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पूठेचन सं ओ/व्या..... जयपुर, दि.....
पतिलिपि राखे गिता:-

(1) सचिव, उच्च न्यायालय एवं एवं न्यायालय, जयपुर

(2) अध्यक्ष श्री/सिनी/व्य..... के कार्यालय

(3) राज्यी श्री/सिनी/व्य..... के कार्यालय

(4) राज्यपाल, कंभोज, जयपुर न्यायालय

सूचना एवं जानकारी के लिए

उप निदेश

S.C. Thakur & Ors
P.N. Kalkar & Ors
et al

74.11.05