

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

**Original Application No. 138 of 2004**

*Indote* this the 18<sup>th</sup> day of October 2005

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

Hridyesh Kumar, S/o. late Shri Bhagwan  
Das Bajoria, aged 19 years, Occupation None,  
Resident of Opposite Kotwall, Nadi Santar,  
Morar, PO Morar, District Gwalior, MP. .... Applicant

(By Advocate – Shri J. Sharma)

**Versus**

1. Union of India, through the Secretary,  
Ministry of Defence, Government of  
India, New Delhi, UT.
2. The Chief of Army Staff, Army Head  
Quarters, New Delhi, UT.
3. The Station Commander, Station Head  
Headquarters, Post office, Morar, Gwalior,  
District Gwalior, MP. .... Respondents

(By Advocate – Shri P.N. Kelkar)

**ORDER**

**By Madan Mohan, Judicial Member -**

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

“to allow this application thereby quashing the impugned order as contained in Annexure A-1 may further be pleased to direct the respondents to consider the case of the petitioner on merits of the case and give him compassionate appointment accordingly and place the details of retrial dues of late Shri B.D. Bajoria. Cost may also be awarded.”



2. The brief facts of the case are that the father of the applicant late Bhagwan Das Bajoria was an employee of the respondents. While in service he died on 29.12.1992. The death certificate is Annexure A-2. At the time of death of the applicant's father, the applicant was minor and was aged 7 years. Hence, his mother moved an application for compassionate appointment for her or her daughter. But no decision was taken in the matter nor any decision was ever communicated to her. Upon attaining majority the applicant filed an application for compassionate appointment. When it was not decided he served a legal notice Annexure A-4 but it was rejected on the ground that the dependents of the retired employee are not entitled for compassionate appointment. Whereas, the fact remains that the father of the applicant died while in service and he was not at all retired. He was a mentally disturbed person and hence, he could not be retired from service prematurely. The decision taken by the respondents in this regard is arbitrary. The policy of compassionate appointment is made to provide financial assistance to the family who died in harness. 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 the applicant's father late Bhagwan Das Bajoria died on 29.12.1992 while in service of the respondents. On attaining the majority the applicant has filed an application for compassionate appointment. He also served a legal notice but it was rejected by the respondents on the ground that the father of the applicant has not died during the service but he died after taking retirement from service. The learned counsel for the applicant submitted that the father of the applicant never retired from service as he was a mentally disturbed person. The decision taken by the respondents in this regard is arbitrary. Even full payment of the retrial dues have not been paid and only Rs. 20,000/- was paid as ex-gratia payment by the



respondents. The action of the respondents is illegal and unjustified. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that late father of the applicant Bhagwan Das Bajoria sought voluntary retirement in the year 1991 and it was accepted with effect from 30.9.1991 (afternoon) and was relieved from service. The applicant has applied for compassionate appointment for the first time on 1.12.2002 i.e. after retirement and death of his father on 30.9.1991 and 29.12.1992 respectively. The argument advanced on behalf of the applicant that his father could not have been retired by the respondents as he was mentally disturbed seems to be no ground in the eyes of law as the applicant has himself accepted in his OA the fact that Rs. 20,000/- was received as ex-gratia payment by the respondents. The learned counsel for the respondents has drawn our attention towards letter dated 30<sup>th</sup> June, 1991 (Annexure R-1). Hence, the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the father of the applicant late Bhagwan Das Bajoria retired from service on 30<sup>th</sup> September, 1991. We perused Annexure R-1 dated 30<sup>th</sup> June, 1991 in which it is mentioned that the voluntary retirement in respect of the applicants' father is accepted with effect from 30<sup>th</sup> September, 1991 (afternoon) and he be relieved of his duties accordingly. We have also perused the Annexure R-2 by which the payment of pension and gratuity in respect of late Bhagwan Das Bajoria was paid. The argument advanced on behalf of the applicant that his father could not have been voluntarily retired by the respondents as he was mentally disturbed seems to be not correct because vide order dated 30<sup>th</sup> June, 1991 the father of the applicant was voluntarily retired from service with effect from 30.9.1991. Apparently the applicant has moved application for compassionate



appointment on 1.12.2002 i.e. much after retirement of his father. Such type of application is not legally maintainable for granting compassionate appointment under any law. Hence, the rejection order dated 17.3.2003 (Annexure A-1) passed by the respondents is perfectly legal and justified.

7. Accordingly, the Original Application is liable to be dismissed as having no merits. Hence, it is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....  
प्रतिनिधि अर्थात्:-  
(1) सचिव, उच्च न्यायालय, जबलपुर  
(2) मा. न्यायाधीश/जज पी.पी. के काउंसल  
(3) मा. न्यायाधीश/जज पी.पी. के काउंसल  
(4) अध्यक्ष, न्यायाधीश, जबलपुर न्यायाधीश  
सूचना एवं आवश्यक कार्रवाई हेतु

उप रजिस्ट्रार

Filed  
8/11/05