

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 365 of 2004

Jabalpur, this the 10th day of December, 2004

Hon'ble Shri Madah Mohan, Judicial Member

1. Smt. Leela Bai, aged 55 years,
w/o. late Nanaji Yerwani, H. No. 178,
Near Kalimata Mandir, Pension Pura,
Cantt. Mhow-453441, Distt. – Indore (MP).
2. Rakesh Kumar, aged 31 years, S/o. late
Nanaji, R/o. H. No. 178, Kalimata Mandir,
Pension Pura, Cantt. Mhow – 453 441,
Distt – Indore (MP). Applicants

(By Advocate – Shri M.B. Saxena)

V e r s u s

1. Union of India, through Secretary,
Ministry of Defence, New Delhi, 110 001.
2. Engineer-in-Chief (E in C's Br.), Army
Head Quarters, Kashmir House, DHQ PO,
New Delhi – 110 011.
3. Chief Engineer, (MES), HQ Jabalpur Zone,
Bhagat Marg, Cantt. Jabalpur – 482 001 (MP).
4. Commander Works Engineer (Project),
(MES), Cantt. Mhow – 453 441 (MP).
5. Garrison Engineer, (North), MES,
Cantt. Mhow – 453 441 (MP) Respondents

(By Advocate – Shri S.A. Dharmadhikari on behalf of Shri Om Namdeo)

O R D E R (Oral)

By filing this Original Application the applicants have claimed the following main reliefs :

“(i) to quash the impugned order (Annexure A-1) and direct the respondent No.3 to offer appointment to applicant No. 2 in terms of Govt. of India Policy.”




2. The brief facts of the case are that the applicant No. 1 is the widow and applicant No. 2 is the son of late Shri Nanaji Yerwane, who was serving in the department of the respondents and died while in service on 16.6.2001 leaving behind his widow (applicant No. 1), one elder son Shri Sunil Kumar, one younger son Shri Rakesh Kumar (applicant No. 2) and one married daughter. The applicants belong to scheduled caste community. The applicant No. 1 requested the respondents to provide employment on compassionate ground on 6.9.2001 but vide order dated 26.2.2004 (Annexure A-1) the application was not allowed and it was rejected merely on the ground that no vacancies are available and the financial condition of the applicants' family is strong. The applicants thereafter send a legal notice, but of no avail. Hence, this OA.

3. Heard the learned counsel for the applicants and the respondents.

4. The learned counsel for the applicants argued that the applicant No. 1 applied for compassionate appointment for applicant No. 2 i.e. the son of the deceased government servant. The applicants belong to scheduled caste community and were eligible for the said employment but it was rejected by the respondents without giving any reason and according to the policy of the Government of India, Ministry of Defence and Army Headquarters the case for compassionate appointment is to be considered by the respondents by three consecutive boards but in the case of the applicant No. 2 it has been considered only one time and was rejected by the impugned order dated 26.2.2004.

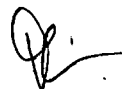
5. In reply the learned counsel for the respondents argued that the widow of the deceased Government servant received monetary benefits of Rs. 3,02,233/-. The application for compassionate appointment of applicant No. 2 was duly considered by the respondents but on merit it could not be allowed. The compassionate appointment is not granted as a matter of right. The applicants are also not suffering from any financial crises and as more deserving cases were available the applicant No. 2, could be granted the compassionate appointment. Hence, the action of the respondents is perfectly legal and justified.



6. After hearing the learned counsel for both the parties and on careful perusal of the records we find that the deceased Government servant left behind him his widow (applicant No. 1), two sons including the applicant No. 2 and one married daughter. I perused the impugned order dated 26.2.2004 (Annexure A-1) by which the application of the applicants was rejected. As per the policy laid down by the Ministry of Defence, Government of India vide letter dated 9.3.2001 and by the Army Headquarters letter dated 30.7.1999, the case of compassionate appointment is to be considered by three consecutive boards. In this case I find that the case of the applicant has been considered only once, which is not in accordance with the policy laid down by the Army Headquarters and Ministry of Defence. The Hon'ble High Court of Patna in the case of **Rajesh Kumar Pandey Vs. Union of India & Ors.**, 2004 (2) ATJ 243, has held that "Appointment – On compassionate ground – Denied on the ground of non availability of vacancies – Under the heading 'Determination/Availability of vacancies' such an appointment cannot be confined to the particular department only but have to be made in other departments also – Authorities to make a necessary search, find a suitable job/vacancy for the petitioner and issue order in his favour."

7. Considering all the facts and circumstances of the case, I am of the opinion that the ends of justice would be met if I direct the respondents to reconsider the case of the applicant in accordance with the aforesaid policies of the Army Headquarters and Ministry of Defence and also the judgment of the Hon'ble Patna High Court in the case of Rajesh Kumar Pandey (supra), within a period of three months from the date of receipt of a copy of this order.

8. Accordingly, the Original Application stands disposed of. No costs.



(Madan Mohan)
Judicial Member

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