

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 475 of 2004

Jabalpur, this the 19th day of October, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Ku. Usha Pandey, D/o. Shri Gupteshwar  
Pandey, Aged about 25 years, R/o. Village  
Bhuili, Tehsil and Distt. Ballia (UP),  
At present Lakha Nagar Riz Road,  
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  
Secretary, Ministry of (Defence) Finance,  
New Delhi.
2. Controller, General Defence Accounts,  
R.K. Puram, New Delhi.
3. Controller of Defence Accounts,  
Riz Road, Jabalpur (MP). ... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

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

"(i) to issue suitable directions to the respondents to give compassionate appointment to the petitioner on any Class-III post in any place of Department within a fixed period,

(ii) the impugned order dated 1.4.2004 (Annexure A-7) by which the compassionate appointment has been refused to the petitioner may also be quashed and the respondents be directed to give compassionate appointment to the petitioner within a fixed period."

2. The brief facts of the case are that the applicant's father late Gupteshwar Pandey was an employee of the respondents working as Assistant Accounts Officer in Local Audit Office, 506, Workshop, Jabalpur. He died on 27.5.2000 suffering from cancer. Thereafter the applicant made an application dated 29.5.2000 on prescribed format for appointment on compassionate ground. The applicant is graduate and she is eligible for appointment on Class-III

post. She was informed by the respondents that due to non-availability of the vacancy she cannot be given compassionate appointment. The applicant submitted that it is not sufficient ground to reject the case of the applicant. The applicant has earlier also filed a OA No.466/2003 and vide order dated 9.1.2004, the Tribunal had directed the respondents to consider the case of the applicant under the guidelines issued by the Ministry of Defence dated 9th March, 2001. The respondents have rejected the application vide order dated 1st April, 2004 (Annexure A-7). Hence, this OA.

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

4. It is argued on behalf of the applicant that the applicant is duly qualified and is the only daughter of the late Government servant Shri Gupteshwar Pandey. Vide order dated 9th January, 2004 the Tribunal had directed the respondents in OA No. 466/2003 to consider the case of the applicant as per the guidelines issued by the Ministry of defence on 9th March, 2001. The respondents have not considered the same and have also not complied with the order passed by the Tribunal. The family of the applicant is in acute financial crises.

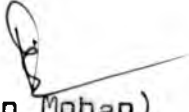
5. In reply the learned counsel for the respondents argued that according to the present OM of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training dated 5th May, 2003 the time limit for making compassionate appointment is fixed. The name of the person can be kept pending for consideration on compassionate ground for three years only. He further argued that the applicant had filed



this OA before six months of passing the order in earlier OA No. 466/2003 on 9.1.2004. He should have waited for six months atleast. The applicant has also not secured the sufficient marks of eligibility. Hence, her application for duly rejected by the impugned order dated 1st April, 2004.

6. After hearing the learned counsel for the parties and on careful perusal of the records, I find that the OM dated 5th May, 2003 issued by the Department of Personnel (Annexure R-1) and Training is not made effective retrospectively. After the death of the applicant's father on 27.5.2000, the applicant filed his application on 29.5.2000 and vide order dated 9.1.2004 in OA No. 466/2003, the Tribunal directed the respondents to consider the case of the applicant as per the guidelines issued by the Ministry of Defence on 9th March, 2001 in which the case of the applicant is to be considered by three consecutive boards. The respondents have considered the case of the applicant and rejected the case for two times. Though the applicant has filed the present OA before six months of the passing of the order on 9th January, 2004 in the earlier OA, it was the duty of the respondents to consider the case of the applicant for the third time also.

7. Accordingly, the order dated 1.4.2004 (Annexure A-7) is quashed and set aside and the respondents are directed to re-consider the case of the applicant in accordance with the order passed in OA No.466/2003 on 9th January, 2004 for the third time within a period of three months from the date of receipt of a copy of this order. Original Application stands disposed of accordingly. No costs.

  
(Madan Mohan)  
Judicial Member