

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 568 of 2004

Jabalpur, this the 23rd day of December, 2004

Hon'ble Mr. Madan Mohan, Judicial Member

1. Smt. Rukmani Bai Passi
Aged 50 years, Wd/o Late
Kesri Lal Passi,
R/o 289, Patel Mohalla, Rampur,
Jabalpur 482 008(MP).
2. Shri Lok Nath Passi Aged 29 years,
R/o 289, Patel Mohalla,
Rampur, Jabalpur(MP)

APPLICANTS

(By Advocate - Shri M.B.Saxena)

VERSUS

1. Union of India Thr' Secretary
Ministry of Defence,
New Delhi- 110 011.
2. ~~Engineer - In - Chief (Ex-in-C's Br.)~~
A-H.Q. Kashmir House,
D.H.Q.P. New Delhi 110 011.
3. Chief Engineer(MES) H.Q Jabalpur
Zone, P.B.84, Bhagat Marg, Cantt.,
Jabalpur 482 001(MP)
4. Commandar Works, Engineer(MES)
Supply Road, Cantt., Jabalpur(MP)
5. Garrison Engineer(East)MES.
Ranjhi, Jabalpur(MP) 482 009

RESPONDENTS

(By Advocate - Shri P.Shankaran)

O R D E R (ORAL)

By filing this OA, the applicant has sought the following main relief:-

"8.1 to quash the impugned order (A/1) and direct the respondent no.3 to consider the case and offer appointment to applicant no.2 in terms of Govt. of India Policy of 1987 instead of Policy of 2001."

2. The brief facts of the case are that the applicant no.1 is widow of late Kesri Lal Passi and applicant no.2 is the son of late ~~Xerox~~ Shri Kesri Lal Passi, who was serving under the respondents department and died on 5.9.1994, due to severe Heart Attack leaving behind him, his widow and two sons.



The applicants belong to poor class family of Passi community i.e. Scheduled Caste and are living in a rental house. The applicant No.1 requested the respondent to provide employment on compassionate ground in favour of the applicant no.2 on 25.9.1994 and also the applicant no.1 executed affidavit in favour of her son i.e. the applicant no.2 while applying for compassionate employment. The age of applicant no.2 is 29 years and he is 8th standard pass. One minor son of the deceased Government servant is going in school. The amount of retiral dues paid to the applicants' family is very meager and the family pension is also not sufficient to maintain their family. The respondents have rejected the claim of the applicant vide order dated 29.7.2002 (Annexure A-1) without considering the financial condition of the applicants' family. Hence, this OA is filed.

3. Heard the learned counsel for the parties.

4. The learned counsel for the applicant argued that the deceased Govt. servant late Kesri Lal Passi, was serving in the respondents department, died on 5.9.1994. The application for compassionate appointment was moved by the applicant no.1 in favour of the applicant no.2 just after few days after the death of the deceased Govt. servant i.e. on 25.9.1994. It was rejected by the respondents after 8 years by the impugned order passed on 29.7.2002 (Annexure A-1). He further argued that as the deceased employee died on 5.9.94 the application of the applicant should have been considered according to the old policy dated 30.6.1987 while the impugned order passed by the respondents is according to the new policy dated 9.3.2001 and consequently, the respondents have



not considered the case of the applicant three times while it was mandatory requirement according to the policies of Government of India, Ministry of Defence and Army Headquarters. The learned counsel for the applicant further argued that the retrial dues and the family pension are not sufficient to maintain the family. The learned counsel for the applicant has relied upon the judgment of the Hon'ble High Court of Patna in the case of Rajesh Kumar Pandey Vs. Union of India & Ors., 2004(2) ATJ 243, wherein the Hon'ble High Court has held that "Appointment – on compassionate ground – denial 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 necessary search, find suitable job/vacancy for the petitioner and issue order in his favour".

5} The learned counsel for the respondents stated that the applicant has filed this OA after a period of one year i.e. after expiry of the limitation period, as the impugned order dated was passed on 29.7.2002 (Annexure-A-1). He further argued that sufficient retrial dues have been granted to the applicants' family to maintain their family and the applicant no.1 is getting family pension regularly per month. Therefore, the applicant no.2 is not entitled for compassionate appointment. He also stated that the compassionate appointment is not granted as a matter of right and also the applicants' family is not facing any financial crises. Hence the OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and careful perusal of records, I find that that the deceased Govt. servant Kesari Lal Passi died on 5.9.94, hence the respondents should have considered and decided the case of the applicant No. 2 for compassionate appointment according to the old policy dated 30.6.1987 while the impugned order dated 29.7.2002 is passed keeping in view the new policy dated 9.3.2001. The respondents have not also considered the case of the applicant for three times by three consecutive boards which is a mandatory requirement under the policies of the Government of India, Ministry of Defence and Army Headquarters. Hence the impugned order dated 29.7.2002 (Annexure - A-1) is quashed and set aside and the respondents are directed to consider the case of the applicant^{No. 2} according to the old policy dated 30.6.1987, and they are further directed to consider the case of the applicant^{No. 2} according to the policies of the Government of India, Ministry of Defence and Army Headquarters for three times, as well as in accordance with the judgment of the Hon'ble Patna High Court referred to above, within a period of three months from the date of receipt of a copy of this order.


(Madan Mohan)
Judicial Member

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