

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 807 of 2004

Gwalior, this the 5th day of April, 2005

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

Manoj Kumar Padwalkar,
aged about 24 years, son of late
Shri Sadashiv Padwalkar, resident
of H.No. 3107, Narsingh Nagar,
Jabalpur M.P.

APPLICANT

(By Advocate - Shri Pankaj Dubey)

VERSUS

1. Union of India, through
Secretary, Ministry of Defence,
New Delhi.
2. The Commandant,
506 Army Base Workshop,
Jabalpur M.P.
3. The Directorate General of
(E.M.E. C.I.V.-2) Master General
of Ordnance Branch Army H.Q.D.E.Q.
New Delhi. 110 011.

RESPONDENTS

(By Advocate - Shri A.P. Khare)

ORDER

By Madan Mohan, Judicial Member-

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

"(i) to quash impugned order Annexure-A-6 and
direct the respondents to consider the case of the
applicant for compassionate appointment on the post
for which he is competent."


2. The brief facts of the case are that the father of
the applicant late Shri Sadashiv Padwalkar was working
on the post of Welder under the respondents department.
He died in harness on 3.9.98 leaving behind his widow two
unmarried daughters. The mother of the applicant is
suffering from T.B. and one sister is yet to be married.
After the death of the Govt. servant and application was
made by the mother of the applicant dated 13.9.98 (Annexure-
A-4) for compassionate appointment. The mother of the
applicant again submitted another application for

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compassionate appointment on 10.10.98 in favour of the applicant, but the respondents did not consider the case of the applicant and have rejected the aforesaid applications of the applicant vide order dated 3.12.2001 (Annexure-A-6). According to the applicant, the respondents have decided the case of the applicant only on the basis of 5% quota of vacant vacancies. This contention of the respondents is wrong and not applicable in the case of the applicant. The rule of 5% quota of vacant post is governed by the OM dated 9.10.1998 issued by the Government of India, Ministry of Personnel, Public Grievance & Pension, whereas the case of the applicant ought to have been considered on the basis of the OM dated 20.9.1998. The applicant and his mother approached to the authority concerned and moved several representations but inspite of lapse of more than 2 years they have not paid any heed to the representations and never replied to it. The amount of family pension is very meagre to maintain the family. The applicant is a graduate in Commerce and is also holding diploma certificate in commercial accountancy and programming. In spite of all efforts, the respondents are not paying any heed to the applicant's case and they have wrongly rejected the claim of the applicant for compassionate appointment. Hence, this OA.

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

4. It is argued on behalf of the applicant that the father of the applicant died on 3.9.98 and the applicant has submitted his application for compassionate appointment on 13.9.98. ~~However~~, According to the OM dated 20.9.98 20% vacancies were available with the respondents for compassionate appointment but they failed to consider the matter of the applicant. The family of the applicant is facing severe financial crisis and also the mother of



the applicant is suffering from the T.B. The learned counsel for the applicant further argued that the applicant is duly qualified and is also having diploma certificate. He also argued that the respondents have not considered the case of the applicant according to the earlier policy dated 20.9.98. They have considered the case of the applicant according to the new policy by which only 5% vacancies were available for compassionate appointment, which is wrong. The case of the applicant should have been considered for 20% vacancies for compassionate appointment as the father of the applicant died much earlier. Hence, the applicant is legally entitled for the relief claimed.


5. In reply, the learned counsel for the respondents argued that the father of the applicant died on 3.9.98 and the application for compassionate appointment was moved by the widow of the deceased Govt. servant on 10.10.98 for her son. The learned counsel for the respondents drawn our attention towards OM dated 26.9.1995 by which the earlier old policy 30.6.1987 is amended and modified from 20% to 5%. Admittedly, the father of the applicant died much after of the aforesaid OM dated 26.9.1995 as on 3.9.98 i.e. after about 3 years of this amendment. The case of the applicant is already considered by four consecutive boards held on October 2000, March 2001, June 2001 and Sept. 2001. The quota prescribed by the Govt is of 5% vacancies is direct recruitment from Group-C and D only for compassionate appointment in the calendar year and the respondents have considered the various parameters like family size, terminal benefits, amount of family pension, earning members in the family etc. The learned counsel for the respondents further argued that the applicant had scored 32 marks out of 60. Since he had scored less than 60% marks his case was not




recommended by the board of officers. The mother of the applicant is getting family pension of Rs.2,350 P.M. and the retiral dues has already been paid to her. Hence, the family of the applicant is not facing severe financial crisis and the compassionate appointment is not a matter of right. Hence, the OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records we find that the father of the applicant died on 3.9.98. We have perused the OM dated 26.9.1995 in which it is mentioned that it has been decided that compassionate appointment can be made up to a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post while in the earlier OM dated 30.6.1987 the compassionate appointment could have been made up to 20% of vacancies. This OM dated 30.6.1987 was amended by OM dated 26.9.1995 -by making 20% to 5%. Hence, the respondents have considered the case of the applicant. In view of this aforesaid memorandum dated 26.9.1995 the 5% vacancies can be considered for compassionate appointment. The case of the applicant was considered by the respondents ^{by} ~~in~~ four consecutive boards held on Oct.2000, March 2001, June 2001 and Sept.2001. We further find that the respondents have considered various parameters like family size, family pension, family members, family's liability etc. We also find that the applicant scored 32 marks out of 60.

7. After considering all the facts and circumstances of the case we are of the considered opinion that the respondents have not committed any illegality or infirmity while passing the impugned order dated 3.10.2001. We do not find any merit in this OA. Accordingly, the same is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman