

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

Original Application No. 813 of 2004

Jabalpur, this the 11th day of April, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Smt. Parvati Vishwakarma, aged about 39 years, W/o. Suresh Kumar Vishwakarma, R/o. 1506, Kanchanpur, Anand Bhavan, Bhatta Road Adhartal, Jabalpur (MP). Applicant

(By Advocate – Shri Mukhtar Ahmed)

V e r s u s

1. Union of India, through Ministry of Defence, (Production), South Block, New Delhi.
2. Garrison Engineer, (East), Jabalpur (MP).
3. Engineer-in-Chief, Central Command, Military Engineering Service, Lakhnow (UP). Respondents

(By Advocate – Shri A.P. Khare)

O R D E R

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

“(i) to issue appropriate writ direction order commanding the respondents to give compassionate appointment to the applicant on a suitable post.”

2. The brief facts of the case are that the husband of the applicant Suresh Kumar Vishwakarma was in the service of the respondents on the post of Chowkidar. He served with the respondents for about 15 years and on his suffering from the disease of Schizophrenia he was referred to the medical board vide order dated 28th December, 1998. The medical board



examined him and he was declared unfit for every service. Thereafter the respondents passed the order of termination from service vide order dated 27th February, 1999 (Annexure A-3). After termination of the services of the husband of the applicant, she was paid only Rs. 24,702/- . Thereafter the applicant applied for compassionate appointment and also submitted the required documents as required by the respondents, in due time. The applicant does not possess any movable or immovable property and family pension sanctioned at the time of termination of the services of the husband of the applicant is only Rs. 1,275/- per month. She is unable to maintain the family of three children by this meager amount. In compliance with the communication dated 3.12.2001 of the respondents, she remained present with all documents in the office of the respondents on 18th December, 2001. Thereafter, the respondents have not intimated to the applicant about further progress in the matter. Hence, this Original Application is filed.

3. Heard the learned counsel for both the parties and perused the pleadings and records.

4. It is argued on behalf of the applicant that the husband of the applicant was declared medically unfit by the medical board vide Annexure A-2 and consequent to this medical unfitness the respondents terminated the services of the applicant's husband vide order dated 27th February, 1999. She applied for compassionate appointment and she has also complied with all the directions and communications issued by the respondents and furnished all the relevant documents within the due time. The applicant does not possess any movable or immovable property and she is unable to maintain her family. At the time when the applicant was terminated from service she was paid only Rs. 24,702/- and family pension of Rs. 1275/- per month is being paid to her. The respondents have not considered the due claim of the applicant for compassionate appointment, without any justifiable ground. The applicant is facing acute

financial crises and hardship. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that after the husband of the applicant was medically boarded out she was paid a sum of Rs. 24702/- as retrial benefits and presently she is getting Rs. 1275/- as monthly pension plus dearness pay @ 50% plus dearness allowances @ 14% per month. When the applicant's husband was medically boarded, the applicant applied for employment assistance on compassionate ground in the department for Mazdoor or its equivalent post. The case of the applicant was duly considered but she is not entitled at all for the reliefs claimed by her and this Original Application deserves to be dismissed. They further argued that the Hon'ble Supreme Court has held in 1997 SCC (L&S) 711, State of Haryana and others Vs. Suraj Bhan, that "Compassionate appointment – Entitlement to – Driver of Haryana State retired on being declared unfit to drive heavy vehicles – Held, not entitled to appointment of his son on compassionate grounds – Request to allow his son, appointed on compassionate grounds due to the impugned direction of the High Court to remain in service, rejected – However, the time spent in the service directed to be considered for granting relaxation of age limit in case his son applied for any appointment pursuant to an advertisement – Physical incapacity – Relief". Hence, this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties, I find that the Hon'ble Supreme in the case of Suraj Bhan (supra) has held that Compassionate appointment – Entitlement to – Driver of Haryana State retired on being declared unfit to drive heavy vehicles – Held, not entitled to appointment of his son on compassionate grounds – Request to allow his son, appointed on compassionate grounds due to the impugned direction of the High Court to remain in service, rejected. I has also perused the Persons with Disabilities (Equal Opportunities, Etc.) Act,

1995 and in its Section 47(1) it is provided that no establishment shall dispense with or reduce in rank an employee who acquires a disability during his service, provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits and further provided that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. This act also does not provide for compassionate appointment to any of the legal heirs of the medically boarded out person. Thus, in view of the aforesaid ruling cited by the respondents of the Hon'ble Supreme Court I find no irregularity or illegality in the action of the respondents.

7. Accordingly, I am of the considered opinion that the applicant has failed to prove her case and this Original Application deserves to be dismissed as having no merits. Thus, the Original Application is dismissed. No costs.


(Madan Mohan)
 Judicial Member

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 पतिलिपि अन्ये दिनः—

“SA”

- (1) सचिव, उच्च न्या, राज्य विविधालय, जबलपुर
- (2) आवेदक श्री/ मीरा, राज्य विविधालय, के काउंसल MUKhtar Ahmed १२०.१३८
- (3) प्रत्यार्थी श्री/ मीरा, राज्य विविधालय, के काउंसल D P Khera १२०.१३८
- (4) अधिकारी, राज्य विविधालय, सूचना एवं आवश्यक कार्यालयी हेतु D P Khera १२०.१३८

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