

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 886/04

Jabalpur, this the ~~14~~ day of *March* 2005

CORAM

Hon'ble Mr. Madan Mohan, Judicial Member

Mukesh Prasad
S/o Late Shri Basorilal
R/o Bachedangaon, Thana Bhedaghat
Post: Gasha, Jabalpur.

Applicant

(By advocate Shri Deepak Nema)

Versus

1. Union of India through
Secretary
Defence Ministry (Indian
Vehicle Factory)
New Delhi.

2. General Manager
Vehicle Factory
Jabalpur.

Respondents.

(By advocate Shri P. Shankaran)

ORDER

By Madan Mohan, Judicial Member

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

To quash the orders dated 14.9.99 (Annexure A2); 23.10.2003 (Annexure A6) and 10.5.2004 (Annexure A10) and direct the respondents to appoint the applicant on compassionate ground on any suitable post.

2. The brief facts of the case are that the applicant's father while working in the Vehicle Factory, Jabalpur, died in harness on 6.1.99, leaving behind his widow, four sons, two daughters-in law and one daughter. In all, 20 members are in the family. After the death of the applicant's father, the mother of the



applicant made a representation for compassionate appointment in favour of the applicant. Vide impugned order dated 14.9.99 (Annexure A2), the request was rejected. Thereafter the applicant filed OA No.810/99 seeking to quash the order dated 14.9.99. The said OA was dismissed by the Tribunal (Annexure A3). Against the order of the Tribunal, the applicant filed W.P.No.7225/02 in which the High Court passed an order dated 6.8.03 (Annexure A5) directing the respondents to reconsider the case of the applicant. But the respondents malafidely rejected the claim of the applicant vide second impugned order dated 23.10.2003 (Annexure A6). Thereafter, the applicant filed a contempt petition No.547/03 wherein the applicant had been granted liberty to file a fresh petition. Accordingly, the applicant filed OA No.26/04 before the Tribunal and vide order dated 6th February 2004, the Tribunal once again directed the respondents to re-consider and decided the matter by passing a speaking, detailed and reasoned order (Annexure A8). The applicant's representation (Annexure A9) was turned down vide order dated 10.5.004 (Annexure A10), citing the same reasons as in the first impugned order. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant's mother had submitted an application for compassionate appointment in favour of her son soon after the death of her husband, but it was rejected vide order dated 14.9.99 (Annexure A2). Thereafter the applicant had filed an OA 810/99 which was dismissed by the Tribunal. The applicant then filed a Writ Petition before the High Court and the High Court passed an order dated 6.8.2003 directing the respondents to reconsider the case of the applicant but the respondents again malafidely rejected the claim of the applicant. On the direction of the High Court in a contempt petition, the applicant filed a fresh OA before the Tribunal in which the Tribunal had directed the respondents to reconsider the matter but the respondents once again rejected the claim by impugned order dated 10.5.2004 (Annexure A10). The learned counsel for the applicant has drawn my attention towards the judgment passed by the Tribunal in OA No.26/04 in which it is held that "I also find that they have only issued a photocopy of the



earlier order dated 14.9.99 rejecting the claim of the applicant. As I find that the respondents have not reconsidered the matter of the applicant, I direct the respondents to reconsider the matter by passing a detailed, speaking and reasoned order within a period of 3 months from the date of receipt of a copy of this order." But the respondents have apparently failed to comply with the directions of the Tribunal again and again. The family of the applicant consists of 20 members in all and they are residing in a Kuchha house. The applicant is a deserving candidate for the relief claimed.

4. In reply, the learned counsel for the respondents argued that on death of the applicant's father, the family received a total sum of Rs.2,76,000/- as terminal benefits. The widow is also in receipt of family pension of Rs.2450/- per month and dearness relief as admissible on family pension from time to time. Two daughters had been married prior to the death of the employee. Two elder sons have also got married and they are doing mazdoor work for their hvelihood. The application for compassionate appointment was considered by the competent authority as per existing policy and guidelines on the subject. The competent authority has to consider each case strictly in accordance with the policy on the subject, depending on vacancies available for compassionate appointment under restricted quota of 5% of total vacancies available under direct recruitment of Group D and C posts. While considering the case and allotting marks, the authority takes into consideration size of the family, number of unemployed children, monetary benefits received by the family, family pension being paid, dependant of the deceased, minor/unmarried daughters, property held by the family and balance of service of the deceased if survived. The case of the applicant was considered along with all other cases. The applicant could score only 37 marks out of 100 which is far less than the minimum scoring points for eligibility. Hence due to lack of merit, the request of the applicant was rejected and he was informed accordingly. The respondents have complied with the directions of the Tribunal and a speaking order has been issued which is in accordance with rules and law. The learned counsel further argued



that the case of the applicant has been considered by the respondents thrice as per the policy of the Government of India.

5. After hearing the learned counsel for the parties and perusing the material on record, I find that the applicant's application was rejected firstly on 14.9.99, secondly on 23.10.2003 and lastly on 10.5.2004. The deceased employee has left behind his widow, 2 married daughters and 4 major sons. The respondents have paid the retiral benefits and the widow of the deceased employee is also getting the family pension of Rs.2450/- per month plus DA as admissible. The respondents have considered the case of the applicant as per the policy of the Ministry of Defence three times. The argument advanced on behalf of the respondents that the applicant could not secure the minimum eligibility marks and they have passed the impugned orders under compelling circumstances after giving due consideration to the applicant's case, in accordance with rules and law, seems to be legal and justified.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

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कृतांकन सं ओ/न्या.....जबलपुर, दि.....
संविधिगत अन्तर्गत
(1) श्री
(2) श्री
(3) श्री
(4) श्री
सूचना एवं आवश्यक कार्यवाही हेतु
जजिस्ट्रार

Shri Deepak Nema H.C. JBP
Shri P. Shankaran H.C. JBP

Issued
on 9.3.05
BS