

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.
JABALPUR

Original Application No. 965 of 2004

Jabalpur, this the 15th day of February, 2005

Hon'ble Shri Madan Mohan, Judicial Member

1. Smt. Shakuntala Singh, Widow of Shri
Nagendra Bahadur Singh, R/o. House No. 565,
Anand Colony, Baldeov Bagh,
Jabalpur (MP).
2. Shri Yatendra Singh, Son of late Shri
Nagendra Bahadur Singh, R/o. House No. 565,
Anand Colony, Baldeov Bagh,
Jabalpur (MP). Applicants

(By Advocate – Applicant No. 2 in person)

V e r s u s

1. Union of India, through the Secretary,
Ministry of Defence,
New Delhi.
2. Chairman, Ordnance Factory Board,
10-A, Shahid Khudiram Bose Road,
Kolkata.
3. General Manager, Gun Carriage
Factory, Jabalpur (MP). Respondents

(By Advocate – Shri A.P. Khare)

O R D E R (Oral)

By filing this Original Application the applicants have claimed the following main reliefs :

“(b) the Hon'ble Tribunal be pleased to quash and set aside the order dated 20.8.2002 (Annexure A-6),

(c) the Hon'ble Tribunal be pleased to direct the respondent No. 3 to consider the case of the applicant No. 2 for appointment on compassionate ground in view of policies framed by the

(X)

Government and also in view of the decision of the Hon'ble Patna High Court referred to above."

2. The brief facts of the case are that the husband of the applicant No. 1 and the father of the applicant No. 2 late Nagendra Bahadur Singh who was working as Chageman Grade-II in the respondents Department died in harness on 4.6.2000. He left behind him his widow, two sons and one daughter. On 1st August, 2000 the applicant No. 1 submitted an application for giving compassionate appointment to the eldest son of the deceased employee i.e. the applicant No. 2 Shri Yatendra Singh. The applicants submitted all the requisite informations as required by the respondents but it was rejected vide order dated 5.11.2001 on the ground that there were more deserving cases than that of the applicants' case. The applicant No. 1 moved another application for compassionate appointment on 26.12.2001 (Annexure A-5). It was also rejected vide non-speaking order dated 20th August, 2002 (Annexure A-6). Certain amount of terminal benefits were paid to the applicants but the respondents have not considered the case of the applicants for compassionate appointment. Hence, this Original Application is filed.

3. Heard the learned counsel for the respondents and the applicant No. 2 who appeared in person and also carefully perused the records and pleadings.

4. The learned counsel for the respondents raised a preliminary objection that this application is barred by limitation. Against this argument the applicant No. 2 argued that they have moved a Misc. Application No. 1327/2004 for condonation of delay. Heard the parties also on MA No. 1327/2004 for condonation of delay. For the reasons recorded in the application the Misc. Application No. 1327/2004 is allowed and the delay is condoned.



5. On merits the applicant No. 2 argued that the deceased employee died on 4th June, 2000 leaving behind him his widow, two sons and one daughter. He further argued that he is the eldest son of the deceased Government servant. His mother i.e. applicant No. 1 applied for appointment on compassionate ground but it was not considered by the respondents. Mere payment of the retrial dues and monthly pension is not sufficient to meet out the daily requirements of the family. He further stated that the respondents have not considered the case of the applicant for three times which is legally required according to the instructions of the Ministry of Defence. He has also drawn my attention towards the judgment of the Hon'ble Patna High Court in the case of Rajesh Kumar Pandey Vs. Union of India and others, 2004 (2) ATJ 243, wherein the Hon'ble High Court has held that "Appointment – On compassionate ground – Denied 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 a necessary search, find a suitable job/vacancy for the petitioner and issue order in his favour."

6. In reply the learned counsel for the respondents argued that sufficient retrial dues are already paid to the family of the deceased Government servant. The family pension is regularly paid to the applicant No. 1. The case of the applicants were considered by the respondents and the applicant No. 2 was not found fit in comparison with other more deserving candidates. My attention is drawn towards the judgment of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and others, (1994) 4 SCC 138 in which the Hon'ble Supreme Court has held that "Compassionate appointment – Grant of, after the lapse of a reasonable period, held, impermissible." This application is moved after a lapse of more than 3 years and the compassionate appointment is not a matter of right and it is an immediate relief to the

family of the deceased Government servant. Hence, this Original Application deserves to be dismissed.

7. After hearing the learned counsel for the respondents as well as the applicant No. 2 in person and also after carefully perusing the records and pleadings, we find that the ruling cited on behalf of the respondents of Umesh Kumar Nagpal (supra) does not apply to the present case as this matter relates to the Ministry of Defence and in the ruling of the Hon'ble Supreme Court the relief was claimed by the petitioner from the State of Haryana and Others. In the cases of Ministry of Defence, the compassionate appointment is to be considered by three consecutive boards in view of the policies laid down by the Ministry of Defence, Government of India vide letter dated 9.3.2001 and by the Army Headquarters letter dated 30.7.1999. In the present case the respondents have not considered the case of the applicants by three consecutive Boards.

8. Hence, in view of the above, I feel that ends of justice would be met, if I direct the respondents to re-consider the case of the applicant No. 2 for appointment on compassionate ground in view of the policies laid down by the Ministry of Defence and Army Headquarters regarding consideration by three consecutive Boards as well as the judgment of the Hon'ble Patna High Court in the case of Rajesh Kumar Pandey (supra), within a period of two months from the date of receipt of a copy of this order. I do so accordingly. Thus, the Original Application stands disposed of. No costs.


(Madan Mohan)
Judicial Member