

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

Original Application No. 260/2003

(Bilaspur), this the 8<sup>th</sup> day of July, 2004

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

Smt. Hemlata Shivhare  
W/o Late Shri Harvilas Shivhare  
Aged about 50 years,  
R/o Shri Ram Kripa,  
Zatar Gali, Near Shagun Palace  
Laxmiganj, Lashkar,  
Gwalior (M.P.)

APPLICANT

(By Advocate - Shri Manoj Sharma)

VERSUS

1. The Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
2. Accountant General (Audit-1), Madhya Pradesh, Moti Mahal, Gwalior (M.P.)

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

ORDER

By Madan Mohan, Judicial Member -

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

"ii) Direct the respondents to grant/consider the claim of the applicant for appointment of the applicant's son on compassionate ground".

2. The brief facts of the case are that the applicant is the wife of late Shri Har Vilas Shivhare (hereinafter referred to as the deceased) who was an employee under the respondent Department in the capacity of Senior Auditor, and died on 30.10.1998 leaving behind his wife i.e. applicant,        unmarried daughters and one son (unmarried). After the death of the deceased employee, his family received the amount of D.C.R.G., Insurance Scheme, Leave Encashment G.P.F. amount and the family pension is being received at the rate of Rs. 2085/- at normal rate. Soon after the death of the husband i.e. the deceased employee, the applicant applied for compassionate appointment to the

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respondents for her son Punit Shivhare vide application dated 10.11.1998. The general law in regard to the compassionate appointment is that the Committee while considering the request for compassionate appointment, should recommend really deserving case within a year after following their norms in the concerned administrative Ministries/Departments that too within the ceiling of 5% of vacancy falling under direct recruitment quota in group 'C' or 'D' Posts. After a lapse of nearly three years, the applicant received a call letter from the office of respondent no. 3 d.e. letter dated 13.09.2001 for the purpose. It is submitted that the son of the applicant is fully eligible to hold the post. He has passed his 10+2 examination in 1998, then B.Com in 2001. Meanwhile he has also passed Hindi Typing Test and being an O.B.C. Candidate. After the interview conducted on 25.9.2001, the applicant and her son are trying to contact the competent authorities regarding the result but the respondents are orally declining the claim of the applicant by saying that there is no vacancy available now and first time by the impugned order dated 15.7.2002 (A/1), the respondents declined the genuine claim of the applicant in a most mechanical fashion. While considering a request for compassionate appointment, a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities and all other relevant factors such as presence of an earning member, size of the family, age of the children, present crisis/essential needs of the family, etc. Meanwhile the applicant came to know some of glaring anomalies in the selection list in which the claim of the son of the applicant has been rejected. One Mr. Pawan Sharma, Ku. Atma Bajpai, Mr. Satish Kaushal Kum Shada Singh and Miss. Anita Lal were given compassionate appointment while their circumstances were on better footings than that of the applicant. The applicant again represented to respondent no. 2 by including all these facts on 15.2.2003.

The said representation was not replied to hence this O.A. has been filed seeking the aforesaid reliefs.

3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicant that the husband of the applicant left three unmarried daughters, one unmarried son and one married daughter. Soon after the death of the deceased employee, the applicant applied for compassionate appointment for her son which was not acceded to while five other employees, namely, Pawan Sharma, Ku. Atma Bajpai, Mr. Satish Kaushal, Ku. Sharda Singh and Miss Anita Lal have been given the compassionate appointment while their family circumstances, financial condition and other relevant facts were on better footings than that of the applicant as the applicant has a large family to manage and three daughters and one son to be married. The compassionate appointment is granted as an immediate relief to provide the financial help to the relatives/dependants of the deceased. It is further argued that the applicant applied for compassionate appointment in the year 1998 whereas she received the reply/rejection letter in the year 2001 which is illegal and against the rules. Learned counsel also drew our attention towards R/1 in which the details of other candidates/employees, whose names have been mentioned above, have been given which shows that they are on a better footing than that of the applicant. Hence, the denial of compassionate appointment to the son of the applicant is not justified and the action of the respondents is highly illegal, arbitrary and against the relevant rules and instructions.

5. In reply, the learned counsel for the respondents argued that the compassionate appointments are made under the scheme introduced by the Govt. of India whereunder the economic status of the family and the benefits received by the family of deceased Govt. employee



are kept in mind while considering the cases of compassionate appointments subject to ceiling of 5% of vacancies falling under the direct recruitment quota in any Group 'D' & 'C' posts. It is further argued that the name of the applicant's son was duly considered by the Departmental Selection Committee constituted for the purpose of recommending the case for compassionate appointment and all these factors were kept in mind while deciding the case of the applicant's son but he was not recommended for compassionate appointment on the ground that the applicant was receiving family pension @ Rs. 3475/- p.m. plus dearness allowances admissible on F.P. from time to time apart from receipt of retiral benefits and possessing one house with four rooms etc. whereas at the time of consideration of the applicant's son only four vacancies in Group 'C' cadre were available for compassionate appointment against which those candidates were selected who were in the immediate need of employment because of more indigent condition of family and deserve immediate assistance for relief from financial destituation in comparison to the applicant's claim. It is further argued that the arguments raised by the applicant that the employees appointed on compassionate grounds were on better footings is not correct.

6. After hearing the learned counsel for both the parties and careful perusal of the record, we find that the husband of the applicant left three unmarried daughter and one unmarried son and one married daughter apart from the applicant <sup>does not seem to</sup> i.e. the large size of family which <sup>is to be</sup> the case of others who have been given preference in appointment on compassionate grounds. We have also noticed that the son of the applicant is a qualified person and he has also passed the Hindi Typing Test, and belongs to O.B.C. candidate. Considering the above facts, we deem it appropriate to ~~quash~~ the impugned order dated 15.7.2002 and direct the respondents to reconsider the claim of the applicant's son for compassionate appointment keeping in view the

family circumstances of the applicant and also the responsibilities of the applicant to be shouldered and take a decision by passing a reasoned, detailed and speaking order within a period of three months from the date of receipt of a copy of this order. We do so accordingly.

7. In the result, with the above directions, the Original Application is disposed of with no order as to costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

/NA/

पूँछांकन सं. 30/न्या..... जहलमु, दि.....  
प्रतिनिधि आवेदित:—  
(1) सचिव, उत्तर राज्यालय परा प्रबोधिताया, जहलमु  
(2) आवेदक श्री/महिला/कु..... दो लाइन M. Sharma  
(3) पत्त्वारी श्री/महिला/कु..... दो लाइन K.N. Pethia  
(4) वायपाल, देवेश, जहलमु व्यवसायिक  
सूचना एवं अवश्यक कार्यवाही हेतु *M.P.S.* 19-7-04  
उप रजिस्ट्रार

Issued  
on 19.7.04  
By B