

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 30 of 2003

Jabalpur, this the 15th day of July 2004

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

Ritesh Kumar Gupta son of Shri Late  
Rewati Prasad Gupta, by Occupation  
Unemployed, Resident of Behind Bank  
Colony, Surajganj, Itarsi M.P.

APPLICANT

(By Advocate - Shri Ramesh Shrivastava)

VERSUS

1. Union of India through the Secretary, Department/Ministry of Defence, New Delhi.
2. The Chief Engineer, Head Quarters, Central Command, Lucknow.
3. The Garrison Engineer(P) Fy, Itarsi M.P.
4. HQ CWE(P), Mall Road, PB.No.89, Jabalpur 482001.

RESPONDENTS

(By Advocate - Shri Bhushan Adlok for Shri Om Namdeo)

O R D E R (ORAL)

By Madan Mohan, Judicial Member -

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

"b. to direct the respondents to consider the case of appointment of the applicant as LDC on compassionate basis.

c. to quash the impugned order dated 19/07/2002 (Annexure-A-20) as being void illegal and arbitrary, in the interest of justice!"

2. The brief facts of the OA are that the applicant's father Late Rewati Prasad Gupta was working as Clerk in the office of Respondent No.3, Garrison Engineer, Itarsi. He died in harness on 23.9.96. The applicant's mother filed an application on 25.2.97 requesting for grant of compassionate

appointment to the applicant as the financial condition of the family was not good. The applicant also submitted an application with his personal details on 15.4.97 (Annexure A3). After a period of one year, the applicant's case was considered and his name was kept on waiting list No.17, pending convening the screening board. Subsequently the applicant's mother submitted a property statement (Annexure A6). Several reminders were sent but his application for compassionate appointment was kept pending and at last the applicant's application was rejected by order dated 19.7.02 (Annexure A20). 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 father died on 23.9.96 and the applicant's mother applied for compassionate appointment of her son on 25.2.97 (A-2 & A-3 respectively) i.e. before the subsequent policy about compassionate appointment dated 9th Oct.98. The case of the applicant was considered in view of the aforesaid policy while it should have been considered in view of the policy dated 30.6.87. The applicant does not possess any movable or immovable property and hence the order of rejection is not legal.

4. In reply, it is argued on behalf of the respondents that the case of the applicant for employment on compassionate grounds was considered strictly on merits but his case was not found fit for grant of appointment on compassionate grounds in comparison to the other more deserving candidates. The applicant has got 67 marks and has been placed at Sl.No.6 of the revised merit cum waiting list. As per the existing policy, only the deserving cases for compassionate appointment are to be



~~recommended~~ for such appointment keeping in view the availability of vacancies. There is no merit in the present application and there is no illegality on the part of the respondents in rejecting the applicant's case.

5. After hearing the learned counsel for both sides and carefully perusing the records, we find that the arguments advanced by the applicant's counsel is that the applicant's case has been considered for appointment on compassionate grounds under the policy of 1998. The applicant's father died in the year 1996. Hence his case should have been considered under earlier policy of 1987. This argument advanced by the learned counsel for the applicant seems to be legally correct. The applicant has relied upon the judgement of the Tribunal in OA No.20/03 dated 28.10.03 and the judgement of the Hon'ble High Court of Madhya Pradesh in the case of T.Swami Das Vs. UOI & ors. Hence this OA is allowed. Impugned orders dated 19.7.2002 are quashed and set aside and the respondents are directed to consider the application of the applicant for appointment on compassionate grounds according to the policy of 30.6.87 and in view of the aforesaid order of CAT in OA No.20/03 and the ruling of the Hon'ble High Court of M.P., within a period of three months from the date of receipt of the copy of this order. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman