

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
Original Application No. 373 of 2003

Jabalpur, this the 28th day of October, 2003.

Hon'ble Mr. G. Shanthappa, Judicial Member

Sunil Kumar Sahu aged about 26 yrs
S/o. Late Dabbalram Sahu
H.No. 3324, Ganesh Ganj
Behind Garha School
Ranjhi Jabalpur M.P.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Ministry of Defence,
Through its Secretary,
Raksha Bhawan,
New Delhi.

2. General Manager,
Gun Carriage Factory
Jabalpur 482011

RESPONDENTS

(By Advocate Shri S.A.Dharmadhikari)

O R D E R

The applicant has filed this Original Application against the order dated 23.10.2002 (Annexure-A-5) by which the request for grant of compassionate appointment to him has been rejected by the respondent no.2. The applicant has prayed for a direction to the respondents to consider his case for grant of compassionate appointment.

2. The case of the applicant is that his father died in harness on 6.2.2000. His mother Smt.Sushilabai applied for compassionate appointment of the applicant in his father's place. The respondents did not consider the case of the applicant and they have issued the impugned order dated 23.10.2002 rejecting the request for grant of compassionate appointment on the ground that the applicant and his mother have received handsome amount of Rs.2,28,368/- as terminal benefits of the deceased employee. The further case of the applicant is that they had some other liabilities and for that the terminal benefits given was sufficient. However, the

Contd.....2/-

mother of the applicant is only receiving the family pension of Rs.3,132/- which is insufficient for maintenance of the family of four elderly members.

3. The grievance of the applicant is that the respondents have not considered the request of the applicant for appointment on compassionate grounds as per the instructions issued by the Ordnance Factory Board vide their Instruction No.2010 dated 3.4.2001(Annexure-A-2) read with instructions dated 9.3.2001. Para 4 of the instructions dated 3.4.2001 specifically provides that -

".....The candidates are required to apply only once and the application if not recommended in the first BOO(Board of Officers) for want of vacancy is to be considered afresh alongwith the fresh applicants by the BOO on three occasions consecutively and ensure that the final decision is communicated to the applicant by a detailed speaking order."

4. Per contra, the learned counsel for the respondents has filed their reply-statement. It has been contended that the OA is liable to be dismissed on the ground that the applicant and his mother are in good financial condition and the mother of the applicant is also receiving monthly family pension of Rs.3258/-per month. It is further contended that in view of the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Joginder Sharma, (2002)8 SCC 65 the case of the applicant cannot be considered and the OA is liable to be dismissed. In this context, the learned counsel has also relied on a decision of the Apex Court in the case of LIC of India Vs. Asha Ramchandra Ambekar, (1994)27 ATC 174=(1994)2 SCC 718 wherein it has been held that the Court cannot direct appointment on compassionate grounds dehors the provision of the Scheme. The respondents have produced an office memorandum dated 22.6.2001(Annexure-R-1) issued by the DOPT in which it has been stated that for considering a request for appointment on compassionate grounds the committee should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendations



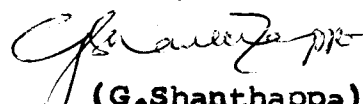
to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too within the ceiling of 5% of vacancies falling under direct recruit quota in any Group 'C' or 'D' post.

5. The learned counsel for the respondents has submitted that the case of the applicant has been considered ones under the available 5% vacancies. He has admitted that the respondents have not considered the case of the applicant on three occasions consecutively. He has stated that subsequent to the passing of the impugned order there was no vacancy available and also no appointments were made under the compassionate grounds. Hence, there is no need of this Tribunal to direct the respondents to consider the case of the applicant afresh.

6. The learned counsel for the respondents further submitted that if a direction is given by this Tribunal to consider the case of the applicant in terms of the instructions of the Ordnance Factory Board dated 9.3.2001 (Annexure-A-2), the respondents may be given some time to consider the request of the applicant under the said circular.

7. Considering the facts of the case on the basis of record and the submissions made by the learned counsel of the respondents, I am of the considered view that it would be proper to issue direction to the respondents to consider the case of the applicant in accordance with para 4 of the OM dated 9.3.2001(Annexure-A-2).

8. Accordingly, the O.A. is disposed of with a direction to the respondents to comply their own instructions issued in para 4 of the aforesaid circular(quoted above) /dated 9.3.2001(Annexure-A-2) within a period of four months from the date of communication of this order. No costs.


(G. Shanthappa)
Judicial Member

Received
30/10/03

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिनिधि अनुरोधित:-

(1) सविन, उच्च न्यायालय प्रार एडवोकेटेशन, जबलपुर

(2) आवेकन श्री/श्री/श्री/श्री.....दे काउंसल

(3) प्रथमी श्री/श्री/श्री/श्री.....दे काउंसल

(4) बांधपात, श्री/श्री, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

Shri Vinod Ambekar, Adv.
उप-उपनिर्देश 20/10/03

Shri Vinod Ambekar, Adv.
Shri S.A. Dharwadhi Ker
Adv.