

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 583 of 2003

Jabalpur, this the 16th day of November, 2004

Hon'ble Shri Madan Mohan, Judicial Member

1. Atul Singh Tomar, S/o. late Shri Jaswant Singh Tomar, R/o. Ho. No. 17/99, New Shobhapur, Gokulpur Ward, Jabalpur (MP).
2. Smt. Kiran Tomar, W/o. late Shri Jaswant Singh Tomar, R/o. Ho. No. 17/99, New Shobhapur, Gokulpur Ward, Jabalpur (MP) ... Applicants

(By Advocate - Shri Mohitra Jr. to Shri H.K. Upadhyaya)

V e r s u s

1. Union of India, through its Secretary, Ministry of Defence, South Block, New Delhi.
2. Ordinance Factory Board, through its Chairman, 10-A, Oukhland Road, Kolkata.
3. Vehicle Factory, Through its General Manager, Jabalpur (MP).
4. Joint General Manager, Administration, Vehicle Factory, Jabalpur (MP). ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

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

"8.2 to issue order or direction declaring that the order dated 28.9.2002 is bad in law,

8.3 to issue a appropriate order or direction directing the respondent to consider the case of the applicant for compassionate appointment."

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2. The brief facts of the case are that the father of the applicant Jaswant Singh Tomar, Cahrge man, working in PVG Section of Vehicle Factory, expired on 16.5.02 at Military Hospital, Jabalpur. The deceased left behind his widow and son. The family has no means of livelihood. The applicant is 27 years old and has done his Bachelor of Business Administration in the year 2000. The mother of the applicant is a heart patient and is undergoing treatment. By the impugned order dated 28.9.2002 the request of the applicant for compassionate appointment was rejected. The applicant's mother also sent a representation to the Chairman, Ordnance Factory Board, Kolkata which is still pending. The impugned order is bad in law and deserves to be quashed and set aside.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that applicant No.1 possesses the requisite qualification for appointment on compassionate ground. His mother is a heart patient and is undergoing treatment. The applicant No. 1 is still unemployed. While he was doing his Masters Degree in Sociology and was studying in final year his father expired because of which he could not complete his MA nor could the computer degree which he was doing from Bhopal. The family is facing acute financial crisis. The respondents have not considered the genuine grounds and contentions of the applicants while passing the impugned order. The impugned order is not a reasoned order and nothing is considered by the respondents while passing this short order dated 28.9.02 (Annexure A4).

4. In reply, learned counsel for the respondents argued that because of number of applications pending for compassionate appointments and limited number of vacancies under 5% quota for such appointment, the required



minimum point for a case to become eligible for compassionate appointment has been fixed as 55. In the instant case, the applicant could score only 40 points. Therefore his case was not found eligible and acceptable to the competent authority as a deserving case for appointment on compassionate grounds. The family of the deceased consisting of widow and only son i.e. the applicant has received Gratuity Rs.3,17,088/-; GPF Balance Rs.66,409/-; CGEGIS Rs.46,102/-; Leave Encashment Rs.3729/-; and Family Pension Rs.3327 + DA per month. Therefore the family of the applicant is not suffering from financial crisis as sufficient amount has already been given to the family. The case of the applicant was duly considered by the Board of officers in accordance with the policy on the subject, but the applicant was not found eligible for appointment on compassionate grounds because of scoring only very low points. Therefore the impugned order was passed in accordance with law and facts. The learned counsel for the respondents has drawn my attention towards an OM dated 5.5.03 issued by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training in which it is mentioned that the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years. Hence the respondents have not committed any irregularity or illegality in passing the impugned order.

5. After hearing the learned counsel on either side and careful consideration of the material placed on record, I find that the respondents have not mentioned anywhere that they had considered the case of the applicant three times. I have perused the order passed in OA 578/03 Bhagwan Das Vs.UOI & Ors dated 12th August, 2004 in which it is held that as per the



policy laid down by the Ministry of Defence vide letter No.10/9(4)/824-99/1998-D(Lab) dated 9.3.01 and by the Army HQ vide letter No.93669/policy/05-SC(I) dated 30.7.99, a case of compassionate appointment is to be considered by three consecutive Boards. As the case of the applicant in the aforesaid OA was considered only once, the impugned order in that OA was quashed and set aside and the respondents were directed to reconsider the case of the applicant in accordance with the aforesaid policy of the Ministry of Defence and the Army HQ. In the present case, the respondents have not argued that the case of the applicant was considered for three times. I have perused the aforesaid OM dated 5.5.03 issued by the Department of Personnel & Training and in this OM it is nowhere mentioned that it has retrospective effect.

6. Accordingly the impugned order dated 28.9.02 (Annexure A4) is quashed and set aside and the respondents are directed to reconsider the case of the applicant in accordance with the aforesaid policy of the Ministry of Defence and the Army HQ. Within a period of three months from the date of receipt of a copy of this order.

7. The OA stands disposed of accordingly. No costs.

पूठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्जो धितः--

(Madan Mohan)
Judicial Member

- (1) सुविद, उच्च न्यायालय वार हरासिआशन, जबलपुर
- aa. (2) आवेदक श्री/श्रीमती/श्री/श्रीमती/श्री/श्रीमती के काउंसल Shri H. K. Upadhyaya H.C. J.B.N.
- (3) प्रत्यर्थी श्री/श्रीमती/श्री/श्रीमती के काउंसल Shri P. Shankaran H.C. J.B.N.
- (4) बंधुधर, के.ए.ए., जबलपुर न्यायाधीश
सचिव एवं आवश्यक कार्रवाई हेतु
19/उप रजिस्ट्रार

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