

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 883 of 2003

Jabalpur, this the 20th day of April, 2005

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

Shyam Kumar Sharma, S/o. late Shri
Gopinath Sharma, aged 30 years, Occupation
Unemployed, resident of House of Mohanlal
Vishwakarma, Gendewali Sadak, Lashkar,
Gwalior. Applicant

(By Advocate – Shri Raja Sharma on behalf of Shri S.P. Jain)

V e r s u s

1. Accountant General of India, New Delhi
10, Bahadurshah Jafar Marg, New Delhi.
2. Principal Accountant General, (Audit-I),
Madhya Pradesh, Gwalior – 474007.
3. Deputy Accountant General (Admn.),
Office of Principal Accountant General
(Audit)-I, Madhya Pradesh,
Gwalior – 474007.
4. Accounts Examination Officer,
Office of Accountant General (Accounts
Examinations)-I, Madhya Pradesh and
Chhattisgarh, Gwalior (MP). Respondents

(By Advocate – Shri M. Rao)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“(a) the impugned order dated 1st September, 2003 (Annexure A-1) issued by the respondent No. 3, where under the applicant has



been denied compassionate appointment on Group-D post, may kindly be ordered to be quashed and a direction may kindly be given to the respondents to grant compassionate appointment to the applicant on or against a Class-D post as per his entitlement and eligibility.”

2. The brief facts of the case are that the father of the applicant Shri Gopinath Sharma was in the employment of the respondents on temporary post of Auditor. He died while in service of the respondents on 3.4.1995. The applicant submitted an application on prescribed form together with the requisite certificate and mark sheets to the competent authority for his compassionate appointment. The applicant was fully eligible for compassionate appointment on a Group-D post as per the policy of the Government of India. However, no action was taken by the respondents. He submitted reminders also. The respondents vide letter dated 13.9.2001 directed the applicant to appear for interview on 25.9.2001 at 3 PM. The applicant appeared in the interview on the appointed date and time mentioned in the letter Annexure A-6. Interview was taken by the respondents but no further intimation was given to the applicant and compassionate appointment was also not given to him. Vide letter dated 2.9.2002 the applicant was informed that his application was not considered. The applicant filed OA No. 315/2003. The Tribunal vide its order dated 15th July, 2003 disposed of with the direction to pass a detailed and speaking order on the application of the applicant. The applicant submitted the copy of this order but the respondents rejected his application vide impugned order dated 1st September, 2003 (Annexure A-1). This order is absolutely incorrect, irrelevant and against the law. Hence, the same is liable to be quashed and set aside.
3. Heard the learned counsel for the parties and carefully perused the pleadings and records.
4. It is argued on behalf of the applicant that inspite of the directions given by the Tribunal vide order dated 15.7.2003 the respondents have



rejected the application of the applicant for appointment on compassionate ground vide impugned order dated 1st September, 2003 without any cogent reasons. It is rejected merely on the ground that terminal benefits are already paid to the family of the applicant and family pension is also being paid. It is not a sufficient ground according to law. They must have considered the facts and circumstances of the case of the applicant which are not at all considered by the respondents. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that compassionate appointment is basically meant for providing immediate economic succor to the family of the bereaved Government employee. It is based on means cum merit. Primarily the pecuniary position of the family of the deceased employee and economic status of the deceased Government servant's family are taken into consideration followed by merit of the candidate subject to ceiling of 5% vacancies falling under direct recruitment quota in Group-C and D posts. The selection is made on the principle of means cum merit. The applicant submitted his application for compassionate appointment in year 1999 i.e. after 4 years of the death of his father. Despite delay the case of the applicant was duly considered by the selection committee taking into consideration the availability of one post for compassionate appointment and the means of applicant found him unfit. Belated application by the applicant itself is a pointer that the family of the deceased Government servant has been able to manage some how all these years and had some dependable means of subsistence. He further argued that one of his family members was earning Rs. 1800/- per month in addition to the monthly family pension and lump sum retrial benefits to the tune of Rs. 1,86,831/-. This fact of earning per month is not controverted by the applicant by filing any rejoinder. The application is not rejected only on the ground of payment of retrial dues and family pension. The respondents have considered all the facts and circumstances of the case and in comparison with other more



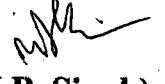
deserving candidates and due to 5% limited vacancies according to the Government policy, there was only one post. Hence, the applicant could not be given the compassionate appointment. The respondents have not committed any irregularity or illegality while passing the impugned order.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the applicant has moved an application for compassionate appointment in the year 1999 i.e. after about 4 years of his father's death. The argument advanced on behalf of the respondents that the compassionate appointment is an immediate financial relief to the family of the deceased employee to save it from starvation, seems to legally correct. The applicant's family was able to manage continuously for about 4 years after the death of the deceased employee i.e. the father of the applicant which means that the applicant's family was not in indigent condition. The another argument advanced on behalf of the respondents that one of the family member of the applicant is earning Rs. 1800/- per month, is not controverted by the applicant by filing any rejoinder. Thus the aforesaid two arguments of the respondents do not make him entitle for compassionate appointment. According to the respondents under the ceiling of 5% vacancies falling under direct recruitment quota in Group-C and Group-D posts, only one vacancy was available and there were more deserving candidates in comparison to the applicant. The case of the applicant was duly considered by the respondents in all angles. The impugned order passed by the respondents does not need for any interference as it is a speaking, detailed and reasoned order.

7. Considering all the facts and circumstances of the case we are of the opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
 Judicial Member

“SA”


(M.P. Singh)
 Vice Chairman