

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 266 of 2002

Jabalpur, this the 23rd day of April, 2004

Hon'ble Shri Madan Mohan, Judicial Member

Smt. Anita Bai Barma, W/o. Late
Jageshwar Prasad Barman, Aged about
36 years, R/o. Village Saliwada,
Post Gour Nadi, Mandla, Road,
Jabalpur (M.P.).

... Applicant

(By Advocate - Shri R.S. Yadav)

V e r s u s

1. Union of India, through Secretary,
Ministry of Defence, New Delhi.

2. The Director General, EME,
Army Head Quarter, DHQ,
New Delhi.

3. The Commandant, 506, Army Base Work
Shop, Jabalpur.

... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R (Oral)

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

"(i) a direction/order be passed directing the
non-applicants to give appointment to the applicant,
on Class-IV post."

2. The brief facts of the case are that the husband of
the applicant was working as Watchman with the respondent
No. 3 and expired during his service on 16.11.1996. Vide
letter dated 14.8.1997 the respondent No. 3 has directed the
applicant to submit the document and information in connection
with her case for compassionate appointment. The applicant
submitted all the documents vide letter dated 8.10.1999. The
respondents rejected the application of the applicant and
said that the case of the applicant was examined by the Board
of Officers at Army Head Quarter  as per order passed by



the Department of Personnel and Training and Public Grievance dated 8.10.1999. The applicant made another representation dated 2.12.1999 stating that she is having four children and she has no immoveable property in her name. She is only getting Rs. 1451/- per month towards pension and has been paid an amount of Rs. 20,891/- as death gratuity and Rs. 70,000/- towards pensionary claim. She has also filed the certificate issued by the Patwari mentioning therein that the applicant is not holding any immoveable or moveable property in her name. Again she was informed that his application is rejected by the Board of Officers of Army Headquarter vide order dated 15.3.2002. The applicant submitted that the respondents have rejected the case of the applicant without considering the merit of the case. Hence this Original Application is filed claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that the applicant is a young lady of 36 years of age and she has four minor children. She has only been paid Rs. 70,000/- as pensionary claim, Rs. 20,891/- as death gratuity and is getting Rs. 1451/- per month as pension. She also has no moveable or immoveable property in her name which is supported by the document issued by the Patwari vide certificate dated 19th September, 1997 (Annexure A-7). She is in acute financial crises for maintenance of her family. The learned counsel for the applicant has drawn my attention towards the judgment of the Hon'ble High Court of Madhya Pradesh in the case of T. Swamy Dass Vs. Union of India and others, 2002(3) MPLJ 242, wherein the Hon'ble Tribunal has held that "Petitioner's father Naib Subedar in Army Corps

of EME died on 20.10.1992 while in service - Petitioner applied for compassionate appointment for Group-D post in 1992 for which he was eligible - Respondents did not consider petitioner's case as only 5% vacancies were available for compassionate appointment under policy dated October 9, 1998 - Petitioner's father having died in October, 1992 and petitioner having applied for appointment against class IV post in same year, his case should have been considered on basis of policy dated June 13, 1987 under which 20% Group-D posts could be filled on compassionate ground and not on the basis of later policy of October 9, 1998 under which only 5% vacancies were available for compassionate appointment to Group-D posts - Decision of respondents applying policy of 1998 set aside - Respondents directed to consider the case of petitioner for appointment on compassionate ground against Group-D post on the basis of policy dated 13.6.1987." □

5. The learned counsel for the respondents argued that the copy of the Annexure A-7 said to have been issued by the Patwari that the applicant is not having any moveable or immoveable property is not given to the respondents and secondly the Partwari who has issued the said certificate does not belong to the village in which the applicant belongs. Hence he was not the competent person to issue the said certificate. He has further argued that the representation of the applicant has been rejected for four times earlier after considering at length by the competent authorities of the respondents, while the application for appointment on compassionate ground can be considered for three times only. The applicant only secured 56% marks and for consideration for appointment on compassionate ground atleast 60% marks is required. The applicant has received Rs. 20,891/- towards death gratuity, pensionary claim of Rs. 70,000/- and is also receiving Rs. 145/- per

month as pension. Regarding the judgment relied upon by the learned counsel for the applicant the learned counsel for the respondents has drawn my attention towards Annexure A-4/in which it is clearly mentioned that the application for compassionate appointment of the applicant has been considered keeping in view the policies of 1987 and also of 1998. It is argued on behalf of the respondents that the date of 30th June, 1987 is a typographical mistake and the correct date is 13.06.1987. Hence the respondents have considered the case of the applicant by all comers.

6. I have given careful consideration to the rival contentions made on behalf of the parties and I find that the applicant's case has been considered by the respondents for four times and it has been rejected vide order dated 15th March, 2002 (Annexure A-10). The respondents have also considered the case of the applicant keeping in view both the policies issued for appointment on compassionate ground. I also find that the applicant was granted Rs. 20,891/- towards death gratuity, pensionary claim of Rs. 70,000/- and is also receiving Rs. 1451/- per month as pension. The document filed at Annexure A-7 is not relevant because the same was not issued by the competent authority. Compassionate appointment is not a matter of right.

7. Hence I am of the considered opinion that the applicant has failed to prove his case. Accordingly the Original Application is dismissed. No costs.

23/4/2004
(Madan Mohan)
Judicial Member