

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 624 of 2002

Jabalpur, this the 4th day of August, 2004

Hon'ble Mr. Sarweshwar Jha, Administrative
Hon'ble Mr. Madan Mohan, Judicial Member

Mahendra Kumar @ Vishnu Vinodiya
S/o Late Shri-Kishan Lal Vinodiya
R/o Bagicha No.66, Near Tadi Khana,
Sadar Bazar, Jabalpur(M.P.)

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Through - The Secretary
Ministry of Defence, New Delhi.
2. The Chief Engineer, Garrison(West)
Jabalpur Zone, Bhagat Marg, Post Box
No. 84, Jabalpur Cantt - 482001

RESPONDENTS

(By Advocate - Shri Om Namdeo)

O R D E R (ORAL)

By Sarweshwar Jha, Administrative Member -

This application has been filed against the order of the respondents dated 29.7.2002 whereby they have rejected the claim of the applicant for his appointment on compassionate grounds.

2. The facts of the case, in brief, are that the father of the applicant Shri Kishan Lal Vinodiya, who was a Mate in the Office of the respondent no.2, died on 9.2.1995 while in service. An application was made by the applicant on 10.9.1995 seeking appointment on compassionate grounds. It is observed that the applicant has depicted the poor condition of his family in which his deceased father was ^{the} only earning member and after whose death the family is left with no means of livelihood. The respondents examined the matter and asked for relevant details/information from the applicant, particularly, relating to annual income of the family (Annexure-A-3). The required information was furnished by the applicant.

When he did not hear from the respondents for a long period, he followed it up by several visits to the respondents' office, and while he received assurances from them on such visits. He finally got the impugned letter from the respondents rejecting his request on account of non-availability of sufficient number of vacancies within 5% quota meant for such appointments, and hence this OA.

3. The applicant has argued in this OA that he was eligible for such appointment as on 9.2.1995 when his father had died and the respondents should have considered his case with reference to the policy in regard to appointment on compassionate grounds dated 9.10.1998 under which the restriction of 5% vacancies being available for compassionate appointment was not applicable. In this connection, he has cited the decision of the Hon'ble Supreme Court in the case of Smt. Sushma Gosain & others Vs. Union of India & others, AIR 1989 SC 1976 to support his prayer that compassionate appointment needs to be provided immediately to redeem the family in distress, and that such cases should not have been kept pending for years. The applicant has further argued in this OA that, by delaying the matter, the respondents have defeated the purpose of the scheme of appointment on compassionate grounds which is intended to mitigate the hardship due to the death of the bread winner in the family. He has accordingly prayed that the respondents be directed to appoint him on compassionate grounds against any post for which he is eligible, qualified and the same is available in the department.

4. On perusal of the ^{impugned} reply, which has been issued by the respondents dated 29.7.2002 (Annexure-A-4), it is observed that they have considered the case of the applicant with reference to Ministry of Defence No.19(4)/824-99/1998-D(Lab) dated 9.3.2001 which has the provision for consideration of such requests with reference to various aspects like family size, age of children, amount of terminal benefits paid to

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the family of the deceased Government servant, amount of family pension, liability in terms of unmarried daughters, minor children, movable/immovable properties left by the deceased Govt. servant at the time of his death, etc. to find out the cases of acute financial distress/most deserving case in relative merit. It is further observed from the said reply that the finding of the respondents in regard to the applicant is that the deceased employee left behind his wife, two sons and two daughters. After his death, his family received an amount of Rs.44,966/- as terminal benefits and that they are in receipt of a monthly pension of Rs.1275/-plus dearness relief. They also seem to have found out that one ^{there are} daughter of the deceased employee is yet to be married, and that/ two minor school going children, taking the position that one daughter is not married; There appears to be some typographical mistake at this point in para 4 of the impugned reply. While it is observed that the respondents have given preference to different aspects of the matter while considering the case of the applicant, they appear to have committed a mistake to the extent that while the father of the applicant died in the year 1995, his case should have been considered with reference to the policy as was relevant in that year. The respondents have considered the case of the applicant with reference to the policy as was laid down in the year 2001, as explained in para 3 of their impugned reply. It is also not appreciated that the respondents have found the financial condition of the family as not warranting assistance which the applicant has prayed for. An amount of Rs.1275/- as pension and retiral benefits of Rs.44,966/- by a family consisting of the widow, two sons and one unmarried daughter is by no standard sufficient to take care of the family and their liability.

5. In consideration of the facts as submitted in this OA and also as made available in the respondents' reply, and also having regard to the decisions of the Hon'ble Supreme Court

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as relied upon by the applicant in this case, we are of the considered opinion that the matter deserves to be reconsidered by the respondents and accordingly we dispose of this OA with a direction to the respondents that they should reconsider the matter as prayed for by the applicant keeping in view the observations as made by us above. They are further directed to dispose of the matter within a period of three months from the date of receipt of a copy of this order. No costs.

(Madan Mohan)
Judicial Member

(Sarweshwar Jha)
Administrative Member

rkv.

पूठांकन सं ओ/व्या.....जबलपुर, दि.....
पत्तिलिपि अत्रोहित:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल applicant
- (3) प्रत्यर्पी श्री/श्रीमती/कु.....के काउंसल own Member
- (4) वांछना, के.ए.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

10-8-04
स्व रजिस्ट्रार

Issued
On 10-8-04
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