

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 784 of 2002

Jabalpur, this the 18th day of June, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mehan, Judicial Member

T. Swamy Dass, S/o Nib/Sub Late D.
Thomas Raj, Aged about 28 years,
R/o C/o Shri A.A. Raj H.No.50,
By-pass Road, Magardha Chowkha,
Distt. Narsinghpur.

APPLICANT

(By Advocate - Shri R.K. Thakur)

VERSUS

1. Union of India, through Secretary, Ministry of Defence, South Block, D.H.Q. P.O. New Delhi.
2. Director General of EME, Master General of Ordnance Branch, Army Head Office, D.H.Q; P.O. New Delhi.
3. The Brig Commandant, 509-Army Base Workshop, Agra Cantt-2820002(U.P.)

RESPONDENTS

(By Advocate - Shri Om Namdev on behalf of Shri K.N. Pathia)

O R D E R (ORAL)

By Madan Mehan, Judicial Member -

By filing the present application, the applicant has sought the following main reliefs:-

- i) By a command, writ of mandamus ordered the respondents to appoint the applicant on Group-'D' post, as labour with them, on compassionate ground.
- ii) The impugned order dated 9.6.2002 (A/1) be quashed.

The brief facts of the case are that the applicant's father, who was enrolled on 17.10.1970 as Naib Subedar in the Army Corps of E.M.E., died in harness on 20.10.1992. The applicant, who has passed the secondary school examination in 1982, made representation to the respondents for appointment on compassionate grounds. The applicant submitted his willingness to accept even the post of Labour. But after seven years of long time, the respondent no. 3 expressed his inability to accede to the request of the applicant for appointment on compassionate grounds.



Since the act of the respondent was untenable and the denial from employment under the guidelines have been illegally and arbitrarily based on false grounds without any rhyme and reasons, the applicant preferred an O.A. No. 177/2000 before the Tribunal. The Tribunal vide its order dated 7.9.2000 was pleased to hold that the application filed by the applicant is devoid of merits and as such was rejected. Against the said order dated 7.9.2000 passed by the Tribunal, the applicant preferred a Writ Petition before the High Court. The Hon'ble High Court vide its order dated 10.1.2002 allowed the said Writ Petition quashing the order dated 7.9.2000 passed by the Tribunal. Thus the applicant ought to have been given appointment in Group-'D' post, as the relevant part of the 1987 policy prescribes the word "and" used afterwards "Group-C posts" in line (iii) is independent in nature, and means that 20% in Group 'D' posts is applicable for all the categories mentioned therein and not only to category (iii) i.e. Ex-servicemen but what the authorities did is that they in their impugned order put their own interpretation of the policy of the year 1987 quite contrary and against the interpretation made by the Hon'ble High Court by saying that for Group 'D' employment 20% reservation is meant for Ex-servicemen and for compassionate appointment under Group-'D' the quota is ~~xx~~ restricted to only 5% of the total vacancy available and have thus committed a gross negligence of the judgement of the Hon'ble High Court passed in the Writ Petition filed by the applicant and have misinterpreted the provisions of 1987 policy. Hence, this original Application has been filed seeking the aforesaid reliefs.

3. Heard the learned counsel for both the parties.
4. It is argued on behalf of the applicant that the respondents have passed the impugned order dated 9.6.2002 (A/1) contrary to the policy of 1987 by which 20% vacancies were available for appointment on compassionate grounds and applying the policy of 1997 by which only 5% vacancies are left for



appointment on compassionate grounds. It is argued by the learned counsel that the father of the applicant died in harness in the year 1992 i.e. much before coming into force the 1997 policy and, therefore, the case of the applicant is to be dealt with the 1987 policy, which was prevalent at that time. Hence, the impugned order passed by the respondents is arbitrary, illegal and contrary to rules and deserves to be quashed.

5. In reply, the learned counsel for the respondents has been argued that the impugned order/~~xx~~ passed by considering all aspects of the matter including availability of vacancies with the respondents as well as the judgement of the Hon'ble High Court passed on 10.1.2002 in the Writ Petition No. 5760/2000 filed by the applicant. Hence, there is no irregularity and illegality is committed by the respondents. It is further argued that appointment on compassionate grounds is not made as a matter of right but the same is provided only when it is established that the family of the deceased employee is facing acute financial crisis in maintaining it.

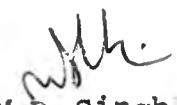
6. After hearing the learned counsel for both the parties and having carefully perused the material on record, we find that while passing the impugned order dated 9.6.2002 (A/1) the respondents have not given any reason as to on what basis the applicant was lacking relative merit and whether 20% vacancies for compassionate appointment were existed at that time or not. It was the duty of the respondents to consider all the facts and circumstances and the policy of 1987 while disposing of the representation of the applicant for appointment on compassionate grounds. Hence, the impugned order dated 9.6.2002 (A/1) has not been passed in accordance with law and is not sustainable and the same is accordingly quashed. The respondents are directed to re-consider the case of the applicant for appointment on compassionate grounds keeping in view the policy of 1987, vacancy position and other relevant facts and circumstances of the case and take a decision by

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by passing a reasoned, detailed and speaking order within a period of three months from the date of receipt of a copy of this order under intimation to the applicant.

7. In the result, the O.A. is allowed. No costs.


(Madan Mohan)
Member (Judicial)

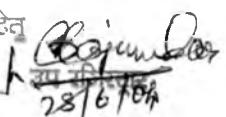

(M.P. Singh)
Vice Chairman

/na/

पृष्ठांकन सं ओ/व्या.....जबलपुर, दि.....
ए प्रिविति अन्वेधित:-

- (1) राम ।, उत्तर राजस्थान लाइब्रेरी बाग, जबलपुर
- (2) अनेक शै/विद्यालय.....के काउंसल R.K. Thakur.
- (3) प्राची शै/विद्यालय.....के काउंसल Om Naikar
- (4) बंदरगाह, दोहरा, जबलपुर व्यायणीठ

सूचना एवं आवश्यक कार्यवाही देते


Rajendra
28/6/64