

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 838 of 2002

Jabalpur, this the 7th day of November, 2003

Hon'ble Shri G. Shanthappa, Judicial Member

Smt. Pushpa Tiwari,  
Wd/o. Late Budhishwar Prasad  
Tiwari, Aged about 34 years,  
R/o. Gandhi Smarak Ranjhi,  
Jabalpur.

... Applicant

(By Advocate - Ku. Malti Dadariya)

V e r s u s

1. Union of India,  
Through Secretary,  
Ministry of Defence,  
Raksha Bhawan, New  
Delhi.
2. The Chief Engineer, Military  
Engineering Services, Jabalpur  
Zone, Bhagat Singh Marg,  
P.O. Box No. 84,  
Jabalpur Cantt.

... Respondents

(By Advocate - Shri K.N. Pethia)

O R D E R (Oral)

The above Original Application is filed challenging the impugned order dated 31.07.2002 and also for direction to the respondents/consider the case of the applicant afresh for compassionate appointment for a suitable post in the Department.

2. The brief facts of the case are that the husband of the applicant died in harness on 05.11.1994 leaving behind herself, her two minor sons and a minor daughter. She had submitted an application for appointment on compassionate ground on 24.06.1995. After verifying the records the respondents have considered the case of the applicant and rejected by issuing an order dated 31.07.2002. While considering the application for a

applied the M.O.D. dated 09.03.2001 and rejected the case of the applicant for appointment on compassionate ground. While rejecting the application for appointment on compassionate ground, they have also considered that the applicant has no legal rights for grant of appointment on compassionate ground since she has already received Rs. 55,765/- as terminal benefits and also she is receiving monthly pension of Rs. 1,275/- plus dearness relief at the rate of 49%. The respondents are not supposed to apply the circular/guidelines regarding appointment on compassionate ground dated 09.03.2001, since the husband of the applicant died in the year 1994 and well in time the application for appointment on compassionate ground was submitted on 24.06.1995. Hence the application of the latest circular/guidelines is illegal and the impugned order is liable to be quashed and there shall be a direction to the respondents to reconsider the case of the applicant as per the rules which were existed as on the date of the application of the applicant. The Hon'ble High Court of Madhya Pradesh has also rendered a judgment to apply the relevant rules as on the date of the application while considering the appointment on compassionate ground.

3. The respondents have filed their reply and denied the allegations and averments made in the Original Application. The respondents have admitted that the case of the applicant has been considered under the latest rules i.e. 09.03.2001. The respondents have supported their action taken by them for rejecting the application of the applicant.

4. Heard the learned Advocate for the applicant and also the Advocate for the respondents and considered the pleadings and the documents placed on the record.

5. The said Original Application is to be allowed and the impugned order Annexure A-1 dated 31st July, 2002 is required to be quashed only on the ground that the respondents have rejected the application of the applicant for compassionate appointment, by applying the circular/guidelines referring appointment on compassionate ground dated 09.03.2001. Hence the action of the respondents is illegal. The respondents have to consider the case of the applicant for appointment on compassionate ground under the rules/circulars/memorandum/guidelines which were existing as on the date of the application i.e. during the year 1995. Admittedly the case of the applicant has not been considered under the said guidelines.

6. Accordingly, the Original Application is allowed and the impugned order dated 31.07.2002 (Annexure A-1) is quashed with a direction to the respondents to consider the case of the applicant for appointment on compassionate ground under the rules/guidelines/circulars/orders, which were existing as on 24.06.1995, within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.

  
(G. Shanthappa)

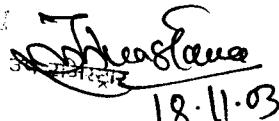
Judicial Member

"SA"

प्राप्तिकर्ता सं. नं. ४४४  
परिवार का नाम..... जन्मस्थान नं.....

- (1) नाम.....
- (2) नाम.....
- (3) नाम.....
- (4) नाम.....

Ku. Malli Dabariya, Adv.  
KN Petwala, Adv.

  
John S. Lala  
18.11.03

  
T. S. Lala  
(19.11.)