

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR
BENCH, JABALPUR

CIRCUIT COURT SITTING HELD AT INDORE

O.A. NO. 382/1997

1. Rajesh Kaushal, S/o. late Shri
Manglal Kaushal, aged 25 years, unemployed,
R/o. House No.35, Naya Bazar, Biharganj,
Neemuch. Applicant

V e r s u s

1. Union of India, through Secretary,
Revenue Secretary, New Delhi.
2. The Narcotics Commissioner,
Central Narcotics Bureau,
19, The Mall, Morar, Gwalior. ... Respondents

Counsel :

Shri D.M. Kulkarni for the applicant.
None for the respondents.

Coram :

Hon'ble Shri Justice N.N. Singh – Vice Chairman.
Hon'ble Shri Govindan S. Tampi – Member (Admnv.).

ORDER (Oral)
(Passed on this the 17th day of February 2003)
By Hon'ble Shri Justice N.N. Singh – Vice Chairman :-

The applicant has filed this Original Application for direction to the respondents to appoint the applicant on compassionate grounds.

2. The case of the applicant is that his father late Mangilal who was working as Deputy Office Superintendent, Level II in Deputy Narcotics Commissioner's office at Neemuch expired in harness on 03/06/1988

M. N. W.

leaving behind his widow Bedi Bai, a son Mukesh Kaushal employed as a Sepoy in Narcotics Department living separately, a married daughter Sodhama living with the family and another married daughter Chanda married after death of the applicant's father, elder son Ghanshayam facing a case under NDPS Act in which he was subsequently acquitted, one sister Smita who is unmarried and this applicant who was minor at the time of the death of his father. The case of the applicant is that earlier prayer for compassionate appointment of his elder brother Ghanshyam was taken up by his mother but the same was rejected by Annexure A/9, dated 19/11/1993 and thereafter prayer for his compassionate appointment was made by the mother of the applicant. The applicant claimed that the family is still in financial indigencies and had no sufficient income with reduced family pension and his prayer for compassionate appointment was also rejected by the authorities by Annexure A/1, dated 05/12/1996 and hence this applicant.

3. The respondents contested the claim of the applicant by filing reply asserting therein that the applicant was not at all entitle for any relief mainly on the ground that late Mangilal died long back in the year 1988 and as per directions of the Apex Court, delayed prayer for compassionate appointment leads to irresistible conclusion of dis-entitlement for grant of compassionate appointment. It was also claimed that the application filed, delay in laches. It was however admitted that late Mangilal died in June 1988 leaving behind his widow, daughters and four sons and that the prayer for compassionate appointment of his son Ghanshyam was received on 26/10/1988 but as the eldest son of the deceased was already employed in the Department as Sepoy, his case was referred to the Board and meanwhile Ghanshyam was ^{involved} ~~involved~~ in a case under the provisions of NDPS Act and the request for appointment



of Ghanshyam was withdrawn from the Board on 13/07/1989. It was further claimed that Ghanshyam was acquitted on technical grounds, but his request was rejected and the mother of Ghanshyam was informed vide letter dated 11/07/1994. Thereafter the widow of the deceased employee made request of grant of appointment on compassionate ground in respect of her 5th child, the present applicant ^{Rajesh} ~~PSG~~ Kaushal in December 1995 and she subsequently filed representation addressed to the Chairman, CBES, New Delhi and she was informed that on account of re-organization of the Department ~~nowwick~~ a large number of Sepoys were rendered surplus and as such the Department was not in a position to consider her request for appointment on compassionate ground of her son. The respondent also pointed out that according to the DOPT's circular dated 26/09/1995 (Annexure R/1) 5% of the direct recruitment during the year was only to be filled up by appointment on compassionate ground. It was also asserted that compassionate ground cannot be claimed as a matter of right.

4. We have heard Shri D.M. Kulkarni learned counsel for the applicant and have gone through the record. Admittedly applicant's father late Mangilal died in June 1988 and at that time the applicant's mother requested for compassionate appointment of her son Ghanshyam who was subsequently involved in a NDPS case and his prayer for compassionate appointment was rejected in 1994. Thereafter in 1995 the applicant's case was placed for compassionate appointment which also was rejected by Annexure A/1, dated 05/12/1996. The grounds mentioned in the rejection order was that due to re-organization in the Department, post of Sepoys have been rendered surplus and it was not possible to give appointment to the applicant. According to the DOPT's instruction (Annexure R/1) compassionate appointments were to be

2000

restricted to only 5% of the direct recruitment during the year. Compassionate appointment cannot be claimed as a matter of right nor it is a ~~fundamental right~~ to give compassionate appointment to the sons in all cases of death of the father. It has been held in the case of Umesh Kumar Nagpal Versus State of Harayana reported at 1992 SLR Page 677 "that the consideration for appointment on compassionate ground is not a vested right which can be exercised at any time. The object is to enable the family to get over the financial crises which it faced at the time of death of the sole bread earner. The compassionate appointment cannot be claimed and offered whatever be the lapse of time and after the crises is over". In another decision in the case of Harayana Electricity Board and another Versus Hakim Singh reported at 1999(1) SLJ (SC) 114 were it was held "that the object of providing such ameliorating relief should not be taken as an opening of an alternative mode of recruitment to public employment. It was further held that if the family members of the deceased employee can manage for 14 years after his death one of his heirs cannot put forward a claim as though it was a line of inheritance. The object be not forgotten".

5. In this case also the father of the applicant died 15 years ago and if the family could manage for such a long period the applicant cannot make a claim for compassionate appointment. As per assertion in the application first son is already employed as a Sepoy in the family and two other major sons are working as casual labourers and they claimed to be living separately. Among daughters only one of them were unmarried and the rest were married and the family had their own house. This go to show that the family is not indigent and after lapse of such a long period of 15 years the applicant cannot be granted compassionate

appointment when the existing strength has been reduced as per Annexure A/1.

6. Summing up the entire discussion made above we find no merit in the application and accordingly it is dismissed but without any order as to cost.

(GOVINDAN S. TAMPI)
MEMBER (A)


(N.N. SINGH)
VICE CHAIRMAN

"SA"

पृष्ठांकन करें १०५/वर्गा..... वर्द्धक द्वारा दिया गया द्वारा.....
 (1) समिति, विद्यालय कालांक अस्तित्व के लिए.....
 (2) अधिकारी, विद्यालय कालांक अस्तित्व के लिए.....
 (3) प्रबन्धक, विद्यालय कालांक अस्तित्व के लिए.....
 (4) विद्यालय कालांक, जितनाराज राज्य विद्यालय कालांक
 सूचना द्वारा दिया गया विवरण द्वारा दिया गया द्वारा.....
 (1) M. Kulkarni, Adv. Indore
 (2) B. D. Dabhade, Adv. Indore
 (3) B. D. Dabhade, Adv. Indore
 (4) B. D. Dabhade, Adv. Jobalpur

ग्रन्थालय
गोप संस्कृत संस्कार 25/2/03