

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. NO. 419/2000

Shyam Kumar Jat, S/o. Late
Shri Ramnath Jat, aged about
21 years, R/o. H. NO. 193,
Kanjhar Mohalla, Jabalpur, M.P. ... Applicant

V e r s u s

1. Union of India, through the
Secretary, Ministry of Defence,
New Delhi.
2. General Manager,
Gun Carriage Factory,
Jabalpur (M.P.). ... Respondents

Counsel :

Shri Deepak Awasthi for the applicant.
Shri P. Shankran for Shri B. Dasilva for the respondents.

Coram :

Hon'ble Shri R.K. Upadhyaya -- Member (Admnv.).

O R D E R (Oral)

(Passed on this the 1st day of January 2003)

By this application, the applicant has assailed the impugned order dated 08/04/2000 (Annexure A-1) and sought a direction for issuing compassionate appointment to the applicant.

2. The applicant's father Shri Ramnath Jat, who was in service of Gun Carriage Factory, Jabalpur, died in harness on 03/07/1992 leaving behind the widow of the deceased Government Servant, two minor sons and one minor daughter. The applicant's mother Smt. Chhaya Jat made an application on 18/08/1992 for compassionate appointment of the applicant. The applicant's date of birth is 01/07/1978. Therefore on attaining majority, fresh prayer of appointment was made on 04/07/1996 (Annexure A-5(1)). It appears that he was called for interview on 05/07/1994

(Annexure A-3) for the post of Canteen Vendor. The claim of the applicant is that he was not given appointment as he had not attained majority ⁱⁿ 1994. Therefore the applicant's mother ^{had} applied immediately after attaining majority of his son. Since the applicant's request for compassionate appointment on attaining majority was not considered and finalised, the applicant approached this Tribunal and filed OA No. 243/1998 which was disposed of by an order dated 23/12/1999 with the following order :

"In view of aforesaid observations, the OA is disposed with a direction to the respondents to consider the case of the applicant for appointment to a Group 'D' post within a period of three months from the date of receipt of copy of this order and inform the applicant within the said period".

2.1. Pursuant to the order of this Tribunal, the impugned order dated 08/04/2000 has been issued in which the claim of the applicant has been rejected on several grounds. It is stated that the applicant was never given any assurance of appointment on attaining majority. The applicant's mother has been drawing family pension at the rate of Rs. 1,275/- plus DA. The family has also received terminal benefits of Rs. 34,972/- in the year 1992-93. The respondents in the impugned order ^{or} further stated that compassionate appointment is given to tide over the sudden ^{due} crisis to the loss of the sole bread winner of the family. Since the family had been able to maintain themselves for ^{of the applicant} all these years, the case was not considered fit for compassionate appointment.

3. This Tribunal by an order dated 27/02/2001 directed the respondents to produce the records showing the marks obtained by the applicant and the basis of the calculation of marks in the record. They were also directed

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to clearly state whether during that period anyone who ^w secured less marks than the applicant was given compassionate appointment. The respondents had filed Misc. Application No. 1468/2001 stating therein that the screening committee on 01/06/1994 had considered the applicant's case. The applicant had secured 64 marks, but he was not given appointment as he was a minor. It is also stated by the respondents that persons securing more than 55 marks were considered and granted compassionate appointment. At the time of hearing, learned counsel of the respondents invited attention to the fact that as per Ministry of Personnel, Public Grievances and Pension's OM dated 09/10/1998, compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore the decision to make appointment on compassionate grounds would call for a great deal of circumspection and such cases may be therefore taken only at the level of the Secretary of the Department concerned. This scheme is not a vested right and is to be granted only exceptional ^v cases in order to meet the sudden financial hardship faced by the family of the deceased employee.

4. After hearing the learned counsel of both the parties and after perusal of the records, it is noticed that there is no denial of the fact that the applicant's case was a suitable case for compassionate appointment except for the fact that he was minor when the offer was made sometime in 1994. From the reply filed by the respondents, it appears that the case of the applicant has been rejected because

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the case was more than 5 years old "which was beyond the power of respondent No. 2", i.e. the General Manager of Gun Carriage Factory, Jabalpur. During the course of hearing, the learned counsel of respondents explained that the Ordnance Factory Board, Kolkatta have also approved the rejection of the compassionate appointment of the applicant. In this case the relevant factors to be considered are whether the respondents were justified in not considering the case of the applicant within 5 years of the death of the deceased Government servant even though he had attained majority during that period. It is also for consideration whether the time which has elapsed after the death of the deceased Government servant in 1992 can be the deciding factor for refusal of the grant of compassionate appointment. So far as the applicant's claim for compassionate appointment on attaining majority within 5 years of the death is concerned, no decision was communicated to the applicant during that period. In pursuance to the order dated 23/12/1999^{of} this Tribunal in QA No. 243/1998, no consideration appears to have been made by the competent authority. For this purpose relevant rules/instructions as applicable on the date of death may be referred to . Government of India, Department of Personnel and Training's (See Swamy's Compilation on Reservations and Concessions, 1996 Page 446) OM No. 14014/6/86-Estt.(D), dated 30/06/1987 provided for deciding the belated request for compassionate appointment is as follows :

Ministries/Departments can also consider the requests for compassionate appointment even where the death took place long ago, say, five years or so. While considering such belated requests it should be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. The very fact that the family has been able to manage somehow all these years should normally be adequate

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proof to show that the family had some dependable means of subsistence. Therefore, examination of such cases call for a great deal of circumspection. The decision in those cases may be taken at the level of Secretary only".

By MA No. 1468/2001 filed by the respondents the details of screening committee held on 01/06/1994 have been produced. No details of any screening committee held thereafter have been produced, in which the applicant's case hadⁿ been considered particularly after he attained the majority on 01/07/1996. The impugned order dated 08/04/2000 (Annexure A-1) also does not state that the same has been issued after consideration by the Secretary concerned. Therefore this Tribunal is constrained^a to set-aside the order dated 08/04/2000 (Annexure A-1) and direct the respondent No. 1 to reconsider the case of the applicant in the light of the existing rules/instructions as applicable on the facts of the case.

4.1. The other aspect regarding need of compassionate appointment even at this stage on account of delay in offer of appointment may be got enquired into by respondent No. 2. A factual report may be sent to the relevant authority by respondent No. 2 to enable him to give a just and appropriate order on the facts of this case.

4.2. In view of the preceding observations, the applicant is directed to send^a a copy of this order to respondent No. 1 with a copy to respondent No. 2 as well as to Ordnance Factory Board, Kolkatta within 4 weeks from today. In order to help the respondents to decide the case expeditiously, the applicant is directed to make a self-contained representation while sending the copy of

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