

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR.

....

Original Application No. 50 of 2000

this the 19th day of February '2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Suresh Jagnade, S/o Sri Rodba Shravan, aged about 25 years,  
H.No. 315, Sheetlamai, near Phuhara, Jabalpur.

Applicant.

By Advocate : Sri R.K. Gupta.

Versus.

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The General Manager, Ordnance Factory Khamaria, Jabalpur.

Respondents.

By Advocate : Sri P. Shankaran.

O R D E R (ORAL)

By this O.A., applicant has sought a direction to the respondents to consider his case and offer compassionate appointment on a suitable post depending upon his qualification and age.

2. It is submitted by the applicant that his father was declared invalid for further service in the Government and was medically boarded out w.e.f. 1.4.1998 vide Factory order dated 14.7.98. He had rendered about 33 years of meritorious service and still had another 6 years of service left before the age of superannuation. It is submitted by the applicant that his father was bedridden due to paralysis therefore, and disorientation of mind / he had to be treated at various hospitals and Military Hospital as well as in private Nursing Home for which huge expenditure was incurred by the

family, therefore, the economic condition of the family became very bad and they had to take loan from various places for the treatment of his father and when the father was medically boarded out there were six dependents, therefore, looking at the immediate need of the family, the applicant's mother gave an application for compassionate appointment as there was no bread earner in the family, but the respondents vide order dated 29.9.1999 informed the applicant that compassionate appointment cannot be given to him. It is submitted by the applicant that rejection of compassionate appointment is wholly arbitrary, illegal and without any justification, therefore, the same needs to be quashed and set-aside. It is submitted by the applicant's counsel that while rejecting the claim of the applicant a ground taken is that they had not shown any daughter at the time of appearing before the Welfare office. More-over, there was no mention made by the employee also in his service book with regard to the said daughter. The counsel for the applicant submitted that even if the daughter <sup>was</sup> <sub>is</sub> there, it does not mean that the family is not in indigent condition and since the respondents did not apply their mind to the financial condition of the family, the said rejection is bad in law. The applicant's counsel also relied on the Scheme dated 3.4.2001 annexed by the respondents in their reply, wherein the Ministry of Defence had laid down the procedure for selection of granting compassionate appointment. He has specifically relied on para 5 of the said scheme, which for ready reference reads as under :

9. "Moreover it has been decided that the Committee (B00) for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% meant for the purpose. This would ensure grant of compassionate appointment within a year."

6. These guidelines being meant for various HQrs/Subordinate Officers/IS Organisations of the Ministry of Defence be brought to the notice of all concerned for

information and said compliance, so as to ensure appropriate action in all cases of compassionate appointment including cases coming up before the CAT/Courts." It is submitted by the applicant's counsel that since the Ministry of Defence had itself decided to grant marks as per the renewed scheme and has brought to the notice of all concerned for strict compliance in all cases of compassionate appointment including the cases coming up before the CAT/Courts, the respondents ought to have considered this case as per the new method.

3. The respondents have opposed the O.A. on the ground that the applicant is third son of the employee and since his case had already been considered by the competent authority and he did not come within the merit, he could not be considered for compassionate appointment. They have further submitted that compassionate appointment cannot be sought as a matter of right and each case has to be decided on its own merits. Since there were no minor child and no un-married daughter in the family, it was not considered to be one of those where the family is in total indigent condition. With regard to the scheme dated 3.4.2001, the counsel for the respondents stated that this would not be applicable in the case of the applicant as his case had already been considered and rejected, while the scheme has come much later, therefore, it would not apply in the applicant's case.

4. I have heard both the counsel and perused the pleadings as well.

5. Perusal of para 6 of the scheme dated 3.4.2001 shows that the guidelines issued by the Ministry of Defence were meant to be strictly complied with to ensure appropriate action in the case of compassionate appointment including cases coming up before the CAT/Courts. Therefore, definitely it would cover the applicant's case also as his case is still pending in the Court. In view of the fact that the respondents have themselves stated that the scheme should be applied to those cases which are

pending in the court, I think that this case needs to be remanded back to the respondents with the direction to consider the applicant's case as per norms set-out in the scheme prepared by the Ministry of Defence and to pass an appropriate order, in accordance with their own instructions within a period of three months from the date of receipt of copy of this order. We would have accepted the contention of respondents' counsel with regard to applicability, had para 6 been not there but in terms of para 6, the contention of the respondents is not tenable in law.

6. With the above direction, the O.A. stands disposed off with no order as to costs.

  
(Mrs. Meera Chhibber)

Member (J)

Girish/-

कृतिकल सं. ओ/न्या.....जबलपुर, दि.....  
प्रभितिरिया आज्ञो शिक्षा:-

(1) राज्य विद्यालय, जबलपुर, जबलपुर

(2) राज्य विद्यालय, जबलपुर

(3) राज्य विद्यालय, जबलपुर

(4) राज्य विद्यालय, जबलपुर

सूचना इन विद्यालय कार्यसाही हेतु

उप अधिकारी  
26/2/03

Issued  
On 26.2.03