

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 573 of 1999

Jabalpur, this the 19th day of February, 2003

Hon'ble Mrs. Meera Chhibber - Member (Judicial)

1. Gagan Kumar Vishwakarma, son of late Shyam Charan Vishwakarma, aged about 21 years, R/o 1212/2, Jai Prakash Nagar, Adhartal, Jabalpur (MP).
2. Smt. Shanti Devi Vishwakarma, widow of late Shyam Charan Vishwakarma, aged about 41 years, R/o 1212/4, Jai Prakash Nagar, Adhartal, Jabalpur (MP)

- APPLICANTS

(By Advocate - Shri Anand Dadariya)

Versus

1. Union of India, through the Secretary, Ministry of Telecommunications, New Delhi.
2. The Chief General Manager, Telecom Factory, Department of Telecommunications, Wright Town, Jabalpur (MP)

- RESPONDENTS

(By Advocate - Shri S.C. Sharma)

ORDER (Oral)

By this O.A., the applicants have challenged the order dated 20.9.1999 (Annexure-A-1) whereby applicant no.1 was informed that his case has once again been considered by the competent authority but did not find any justified grounds on scientific method to recommend his case for appointment on compassionate grounds. The applicants have further sought a direction to the respondents to consider the case of applicant no.1 for appointment on any suitable post in Telecom Factory, Jabalpur on compassionate grounds within a period of 3 months. They have also sought quashing of the order dated 20.10.1995.

2. It is submitted by the applicants that father of applicant no.1 - late Shri Shyam Charan Vishwakarma died in harness on 23.7.1994 leaving behind his widow, two sons aged about 20 years and 15 years, and one daughter aged about 21 years married in 1996. It is submitted by the

applicants that they had earlier filed O.A.No.822 of 1998 which was decided by this Tribunal on 25.6.1999 by observing that the applicants appear to have a case in their favour. Therefore, the matter was remitted back to the authorities to consider the applicants' representations dated 3.2.1998 and 27.4.1998 and pass a reasoned order. Pursuant to the said direction, the respondents have issued the order dated 20th September, 1999, which is impugned by the applicants in the present O.A.. It is submitted by the applicants that after the death of Shri Shyam Charan Vishwakarma, the family was in total indigent condition as Rs.50,000/- have to be repaid as against the loan taken by late Shri Vishwakarma for the construction of house; and rest of the amount was spent on marriage of their daughter Ku.Sandhya Vishwakarma. Therefore, they just have the meagre amount of pension to survive which too shall be reduced to Rs.375/- plus D.A. after completion of seven years of the death of Shri Vishwakarma. Therefore, all these things ought to have been considered by the High Power Committee (for short 'HPC'). But, once again, the respondents have merely rejected the case of applicant no.1 without giving any reasons in the impugned order. It is, therefore, submitted by the applicants that the said order is liable to be quashed and set aside.

3. The OA is opposed by the respondents, who have stated that after the death of Shri Vishwakarma, the applicants were directed to submit the forms duly given by the office, whereafter the Verification Committee visited the residence of late Shri Vishwakarma on 6.5.1995, and after verification, the case was put up to HPC in its 28th Meeting along with other cases for compassionate appointment for judging the suitability of all the candidates. The Committee applied a scientific method and taking into consideration the financial condition and background of the case, came to the conclusion that the applicant no.1

did not get sufficient marks to grant him compassionate appointment. Accordingly the case was rejected. The minutes of the meeting are annexed at Annexure-R-1. Later on, pursuant to the direction given by this Tribunal in OA 822/1998, the case was reconsidered by the HPC but that too was of the opinion that it cannot be said to be a case where the family is in total indigent condition. Therefore, the case has been rejected. The counsel for the respondents submitted that the number of applications for compassionate appointment are very large whereas the number of vacancies to be filled on compassionate grounds is very limited being 5% of the direct recruitment in a year. Therefore, the compassionate appointment cannot be given to all the candidates. As such, after examining all the aspects, the appointment is given only to such of the cases who ~~were~~ ^{are} found to be more deserving and fall within 5% ^{of the limit} of the direct recruit vacancies of the year. Since the applicant's case did not fall within that category, no interference is called for and the OA may be dismissed.

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

5. A perusal of the order in OA 822/1998 shows that the Tribunal had directed the respondents to reconsider the case of the applicants, but the respondents rejected the case of applicants by passing an order dated 20.9.1999 (Annexure-A-1), once again without giving any reasons. It is rather unfortunate that in spite of clear direction by the Tribunal to pass a reasoned order, the respondents merely repeated their earlier order that the HPC has not recommended the case. Why it was not recommended, no reasons were assigned. The said order could have been quashed on this ground itself. But, since this was already a second round of litigation, I had asked the respondents to produce the original records for perusal, to see whether

the case of the applicants was duly considered by them or not and what were the reasons for rejecting the applicants' case. The respondents' counsel produced the original records which shows that all the cases seeking compassionate appointment were placed before the HPC and each was given marks depending on the financial condition of the family; number of dependants; number of years of service left; and whether the family members own any immovable property ^{check} or not. A detailed comparative table has been prepared by the HPC and marks have been assigned to each candidate. The person who has been given compassionate appointment with the lowest marks starts from 56 onwards whereas the applicant could secure only 50 marks as per the table prepared by the HPC. Therefore, it is clear that no person with lesser marks than the applicant no.1 has been given the compassionate appointment. The law on the subject of compassionate appointment is ^{well} ~~very~~ settled by now as Hon'ble Supreme Court has held that compassionate appointment cannot be sought as a matter of right not as a line of succession; on the contrary it can be granted only in exceptional circumstances where the family of deceased employee is in total indigent condition and is not able to survive without immediate assistance from the department to tide over the crises left behind ^{due to} ~~the~~ sudden death of the bread winner. It is also settled that no direction can be given by the Court to give appointment on compassionate grounds to any individual over and above the 5% limit prescribed by the instructions issued by the Government of India. So, the only thing the Court has to see is, whether the case of the applicant has been properly considered by the respondents or not. Since the applicant's case has been duly considered by the HPC and the record shows that there were more deserving cases than the applicant no.1, naturally preference had to be given to those cases and since the applicant no.1 did not come within the purview of limit of 5% vacancies, no direction

can be given to the respondents to give appointment to him on compassionate grounds.

6. In view of the discussion made above, though no case has been made out for interference by the Tribunal, but I think it would be relevant to mention that the respondents should take care in future to decide and pass reasoned order in such cases by giving reasons in the order itself so that persons are not unnecessarily dragged to the Court. The Hon'ble Supreme Court has repeatedly observed that whenever a representation is given to the authorities, the least that is expected from the authorities is to pass a reasoned and speaking order so that it can satisfy the persons at that stage itself and can reduce unnecessary litigation.

7. With the above observation, the O.A. is dismissed with no order as to costs.

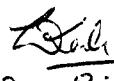

(Mrs. Meera Chhibber)
Member (Judicial)

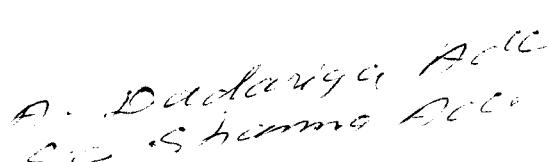
rkv.

पृष्ठांकन सं ओ/न्या.....जललपुर, दि.....
पतिनिधि आवृत्ति:-

- (1) सचिव, उच्च व्यायामिक दायरे, न्या. जललपुर
- (2) अधिकारी श्री/श्रीमती/दूसरी व्यायामिक दायरे, न्या. जललपुर
- (3) प्रधानी वी/श्रीमती/दूसरी व्यायामिक दायरे, न्या. जललपुर
- (4) वांचाला, न्या प्रांत, जललपुर न्या. जललपुर

सूचना एवं आवश्यक कार्रवाई दिनांक


21-2-2023


D. Dadhey A.O.C
S. Chhanna A.O.C

15/2/2023
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