

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.649 of 2000

Jabalpur, this the 20th day of November, 2003

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Horilal, S/o late Shri Chhotelal,
R/o Goushala No.2, Military Farm,
Jabalpur (M.P.)

- APPLICANT

(By Advocate - None)

Versus

1. Union of India, through Secretary,
Ministry of Defence, New Delhi.
2. Deputy Director General Military Farms,
Army Headquarters, West Block III,
R.K.Puram, New Delhi.
3. Director, Military Farms, Headquarters,
Central Command, Lucknow-226002 (U.P.).
4. Officer-in-charge, Military Farm,
Jabalpur (M.P.).
5. Amar Kumar Sahu, S/o late Shri Gopal Prasad,
Sahu, working as Farm Hand, Military Farm,
Jabalpur (M.P.).
6. Chhoti Bai, w/o late Shri Ramavtar, working as
Farm Hand, Military Dairy Farm, Jabalpur (M.P.).
7. Om Narayan Dwivedi, S/o late Shri R.N.Dwivedi,
Farm Hand, Military Farms, Jabalpur (M.P.) - RESPONDENTS

(By Advocate - Shri S.A.Dharmadhikari for official-
respondents)

O R D E R

By M.P.Singh, Vice Chairman -

None for the applicant. As this is an old matter of the year 2000, we are disposing of the same, in the absence of counsel for the applicant, by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987 after perusing the pleadings and hearing the learned counsel for the respondents.

2. By filing this Original Application, the applicant has sought a direction to quash the order dated 4.2.2000 (Annexure-A-1) and direct the respondents to appoint the applicant as Farm Hand on regular basis on compassionate

grounds and also to assign him proper placement in the seniority list with consequential benefits.

3. The brief facts of the case are that the applicant's father Shri Chhotelal was serving in the establishment of respondents 1 to 4 on the post of Permanent Farm Hand and while he was serving, he died on 1.4.1997 due to electric shock while he was discharging his duties. The applicant and his mother made several representations to the official-respondents for giving appointment on compassionate grounds as the father of the applicant was the only earning member and on his death entire dependant members are facing starvation and they are unable to maintain themselves. But no appointment has yet been given to the applicant, instead the official-respondents have appointed respondents nos. 5 to 7 on compassionate grounds. The applicant submits that his father had died in harness in the year 1997 whereas the father of respondent no. 7 died on 8.12.1998. As the official-respondents have not appointed him and passed the impugned order dated 4.2.2000 (Annexure-A-1) he has filed this O.A. claiming the aforesaid reliefs.

4. The respondents in their reply have stated that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis on the death of its sole bread winner. Further, mere death of an employee in harness does not entitle his family to such source of livelihood. The financial condition of the family of the deceased employee should be examined and it is only if it is satisfied that but for the provision of employment the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family. According to the official-respondents

the private respondents 5 & 6 have been given appointment on compassionate grounds on the basis of quota of 5% vacancies, therefore, it does not amount to violation of any provisions of law nor is the case of hostile discrimination. The respondents have also submitted that services of the daily wager labourers were discontinued and they were asked to perform the duties on job basis as per the policy. The applicant did not accept the job basis work, hence he was discontinued.

5. We have heard the learned counsel for the respondents and carefully perused the records produced by them. We find that the respondents vide the impugned order dated 4.2.2000 which was passed in pursuance to the directions of the Tribunal dated 13.1.2000 in OA 10/2000 and the applicant's representation dated 18.1.2000, intimated the applicant that his "representation has been examined and as and when the first vacancy in the compassionate appointment quota of 5% of vacancies arises... (his) case for compassionate appointment will be considered". On perusal of the record produced by the respondents, we find in their internal correspondence dated 28.11.2000 the respondents have deleted the name of the applicant from the waiting list for appointment on compassionate grounds. However, no such order has been communicated to the applicant.

6. The Hon'ble High Court of Madhya Pradesh in the case of T. Swamy Das Vs. Union of India, 2003(1)ATJ 367 has held that one who is eligible for appointment at the time of appointment for compassionate ground, he cannot be denied appointment on account of policy framed subsequently. In the said case, the compassionate appointment was denied on the ground that only 5% vacancies were available in terms of the policy decision dated 9th Oct. 1998 and the Hon'ble High Court has held that the case of the said petitioner be considered under the policy dated June 13, 1987 and not on

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the basis of later policy of October 9, 1998.

7. The facts of the instant case are similar to the aforesaid case decided by the Hon'ble High Court, accordingly, following the aforesaid decision of Hon'ble High Court in the case of T. Swamy Das (supra) this O.A. is liable to be allowed.

8. In the result, the O.A. is allowed. The impugned order dated 4.2.2000 is quashed. The respondents are directed to consider the case of the applicant for appointment on compassionate grounds within a period of two months from the date of communication of this order. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman.

rkv.

पृष्ठान्त सं ओ/ज्या.....जवलापुर, दि.....

य विनिर्दिष्ट कार्य निम्न -

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सूचना एवं आवश्यक कार्रवाई हेतु

Mrigendra Singh, Adv.
SA Dharma Nikari, Adv.

24-11-03

Insecta
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