

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 23rd day of October, 2008

ORIGINAL APPLICATION NO.114/2005

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Anil Kumar Sharma
S/o Late Smt. Prem Devi Sharma,
R/o V & P Niwana via Itawa Bhopji,
District Jaipur.

... Applicant

(By Advocate : Shri Manish Sharma, proxy counsel for
Shri S.P.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Geological Survey of India,
Ministry of Mines,
Shastri Bhawan,
New Delhi.
2. Director,
Geological Survey of India,
Western Region,
Jaipur.

... Respondents

(By Advocate : Shri T.P.Sharma)

ORDER

PER HON'BLE MR.B.L.KHATRI

The applicant has filed this OA thereby praying
for the following relief :

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"Set aside the letter dated 27.12.2004 and direct the respondents to consider the case of the applicant for compassionate appointment as against his application which he had moved in the year 1995 itself and as per the seniority prepared by them in 2000 as per their own letter dated 17.1.2000 and further direct the respondents to give all consequential benefits to the applicant."

2. Brief facts of the case are that mother of the applicant, Smt. Prem Devi Sharma, was working as Messenger (Sandesh Vahak). She died on 10.1.95 while in service leaving behind the applicant and his three younger brothers. Applicant's father had already expired and he had old grand mother. The applicant immediately submitted an application in January, 1995 for seeking appointment on compassionate ground as he was the eldest son and had passed 12th Class and was 20 years of age at that time. But the applicant did not hear anything from the respondents although he continued to move applications from time to time and reminders thereof. Since the applicant had been submitting applications by Registered Post as well as by hand in the office of the respondents without any fruitful result, he had ultimately sent an intimation to the Hon'ble Prime Minister. Thereafter, the applicant received a letter dated 17.1.2000 (Ann.A/12), i.e. after five years, from the respondents intimating that his case shall be considered for the quota of compassionate appointment whenever post for compassionate appointment will be available according to the seniority maintained by their office. Thereafter, the applicant received order dated 27.12.2004 (Ann.A/1) stating therein that his case cannot be considered again as per the time limit for compassionate appointment laid down in DOPT OM No.14040/19/2002 dated 5.5.2003. The applicant thereafter submitted a detailed representation to the authorities on 16.2.2005 (Ann.A/14) but the same also remained unanswered.

3. The applicant has also referred to some cases viz. Rakesh Kumar Dami, who was son of Late Shri Jagdish Narain (Operator), died on 28.12.2000, and Smt. Indira Verma, who was wife of Late Shri Mahesh

Verma (JTA), died on 2.8.2001, in whose cases appointments on compassionate ground have been granted.

4. The respondents have contested this application and filed their reply, inter-alia, making the following submissions :

"4.4 That the contents of para 4.4 of the OA are not admitted in the manner stated by the applicant. It is respectfully submitted that the applicant initially applied for compassionate appointment vide his application dated 27.1.95. The applicant completed information in the proforma required by this office vide his application dated 12.12.95. The case of the applicant for compassionate appointment was placed before the CAC which met on 24.1.96 for consideration of pending cases of compassionate appointment. The CAC considered the case of the applicant and recommended for compassionate appointment in any Group-C post according to his qualification, vide its minutes dated 24.1.96. As per the provisions contained in the Dy. Director General (P), GSI, Kolkata, letter No.125R/A-12041/Com.Apptt.Gen/97/17D dated 4.1.96, the case of the applicant was forwarded to the DDG(P), GSI, Kolkata, for approval of the competent authority for appointment on compassionate ground, vide office letter No.A-32016/16/97 Rectt dated 19.9.97. In compliance to the instructions laid down in CHQ, GSI, letter dated Nov.97, the case of the applicant was again forwarded to the DDG(P), GSI, Kolkata, for approval of the competent authority in regard to appointment of the applicant in Group-C post vide this office letter dated 20.1.98. The CHQ, GSI, Kolkata, informed that since DDG of the Regions are empowered to appoint in regular Group-C and D post, it is therefore

requested to review all the pending compassionate appointment cases of the Region at his level, keeping in view the guidelines laid down in DOPT OM dated 3.12.99, vide letter dated 14.3.2001. In compliance to the said CHQ's instructions all the pending compassionate appointment cases, including the case of the applicant, were placed before the CAC which met on 3.4.2002 for review. The CAC met on 17.7.2002 and reviewed the old cases pertaining to compassionate appointment as well as reconsidered the recommendations of the CAC dated 3.4.2002.

The CAC vide minutes dated 17.7.2002 rejected all the old pending compassionate appointment cases including the case of the applicant keeping in view the rule position in the matter of compassionate appointment and latest guidelines issued by the Govt. of India. As per the instructions received by the CHQ letter dated 2.1.2003, the case of the applicant was placed before the CAC which met on 16.4.2003 for review. The CAC recommended the case of the applicant for compassionate appointment. As there was a ban on direct recruitment in Group-C and D posts vide CHQ letter dated 18.8.2003, case of the applicant could not be considered for appointment on compassionate grounds. As per the latest provisions laid down vide DOPT OM dated 5.5.2003, the case of the applicant has been re-examined and keeping in view the instructions for maximum time limit i.e. 3 years, for which a case may be kept for consideration & being very old one, the case of the applicant has been closed finally. The intimation to this effect has already been communicated to the applicant vide this office letter dated 27.12.2004.

4.6 That the contents of para 4.6 of the OA are admitted to the extent that vide order dated 27.12.2004 case if the applicant was rejected by the department keeping in view of the rules of position of DOPT OM dated 5.5.2003 and the case being old.

4.7 That the contents of para 4.7 of the OA are not admitted. It is respectfully submitted that Smt. Indira Verma & hri R.K. Dhabhi were appointed to the post of LDC and Messenger w.e.f. 10.10.2002 and 13.11.2002 respectively as per the recommendation of the CAC which met on 17.7.2002."

5. I have heard learned counsel for the parties and perused the relevant record on the subject. Case of the applicant for compassionate appointment was placed before the Compassionate Appointment Committee (CAC) which met on 24.1.96 for considering pending cases of compassionate appointment. The CAC considered the case of the applicant and recommended him for compassionate appointment in any Group-C post vide its minutes dated 24.1.96. Case of the applicant was forwarded to the Deputy Director General (Personnel), Geological Survey of India, Calcutta [DDG(P), GSI, for short] for approval of the competent authority for appointment on compassionate grounds vide office letter dated 19.9.97 (Ann.R/3). Vide letter dated 16.11.97 (Ann.R/4), the Director (Personnel), GSI, Calcutta, has directed the DDG, Western Region Office, GSI, Jaipur, to submit separate proposal for individual candidate for obtaining the approval of the Ministry whenever necessary. In response to this letter, the DDG, Western Region, vide letter dated 20.1.98 (Ann.R/5) had again forwarded the case of the applicant for compassionate appointment to the DDG(P), GSI, Calcutta. Through this letter it was intimated that the proposal in the prescribed proforma, duly approved by the Head of Office, alongwith

recommendations of the CAC dated 24.1.96 was being forwarded. Vide letter dated 14.3.2001 (Ann.R/7), office of the Director (Personnel), GSI, Calcutta, informed the DDG, Western Region, GSI, Jaipur, that approval of the competent authority is not required as the DDGs of the Regions are empowered to appoint in regular Group-C and D posts. It was also requested to review all the pending compassionate appointment cases keeping in view the guidelines laid down in DOPT OM dated 3.12.99. But inspite of clear instructions of the Director, vide letter dated 14.3.2001, to the effect that DDG, GSI, Jaipur, was fully competent to appoint the applicant on compassionate grounds, a mistake was committed as his name was clubbed with the other pending cases of compassionate appointment. His case was again considered but now they have not considered applicant's case favorably keeping in view the provisions contained in the DOPT OM dated 5.5.2003. It was intimated that as per the time limit for compassionate appointment, stipulated vide para-3 of the DOPT OM dated 5.5.2003, his case was not considered for appointment.

6. After perusal of the record, it is evident that his case could not be considered at the appropriate time in spite of the fact that his case was recommended by the CAC and also by the Head of Office because of inaction on the part of the respondents.

7. Keeping in view the special circumstances mentioned in this OA, whereby justice was denied to the applicant because of inaction on the part of the respondents, the respondents are directed to reconsider the case of the applicant for appointment on compassionate grounds in the next CAC meeting. However, his case is to be considered without taking into account the limitation of three years laid down in the DOPT OM dated 5.5.2003. His case is also to be considered subject to the condition of all other rules, regulations, instructions, penurious condition

of the applicant and subject to the availability of vacancy.

8. With these observations, the OA stands disposed of. No order as to costs.


(B. L. KHATRI)
MEMBER (A)

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