

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, the 17th April, 2006

ORIGINAL APPLICATION NO. 237/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

Smt. Neeraj Saigar W/o Shri Sunil Singh aged about 36 years, resident of 61/124 Rajat Path, Mansarovar. Jaipur.

....Applicant

By Advocate: Mr. Amit Mathur

Versus

- 1 Union of India through Controller and Chief Accountant General, 10 Bhaudar Shah Jafar Marg, New Delhi.
- 2 Accountant General (A&E), Indian Audits and Accounts Department, Bhagwan Das Road, Jaipur.

....Respondents.

By Advocate : Mr. Gaurav Jain

ORDER

(PER M.L. CHAUHAN, MEMBER (JUDICIAL))

The applicant has filed this OA thereby praying for quashing & setting aside the order dated 19.01.2005 whereby the candidature of the applicant for appointment on

compassionate grounds was rejected. It is further prayed that the respondents may be directed to assign appointment to the applicant on compassionate ground against the suitable post available.

2 Briefly stated, facts of the case are that Late Shri Sunil Singh who was initially appointed as Accounts Officer in the office of respondent No. 2 and at the relevant time was posted as Divisional Accounts Officer in the office of Executive Engineer, PHED, Barmer on deputation basis, died on 29.8.2004. The applicant submitted an application for appointment on compassionate grounds on 27.09.2004. Since the application was not in the prescribed proforma, the applicant was asked to submit the same in prescribed proforma. Accordingly, the applicant submitted the application dated 20.10.2004. The case of the applicant was considered and subsequently vide impugned order dated 19.1.2005, the candidature of the applicant for appointment on compassionate grounds was rejected. It is this order which is challenged in this OA. The applicant has pleaded that she is a widow lady and she is not having any movable or immovable property in her name and she is residing in the house of her brother as she is not having any house or any other immovable property. She has also pleaded that as her husband was the employee in the respondent department, therefore, it was the duty of the respondent to consider the her case sympathetically. Since according to the applicant, her case was not considered properly, hence she

has filed this OA for the aforesaid reliefs.

3 Notice of this application was given to the respondents. The facts, as stated above, are not disputed by the respondents. It is further stated that the case of the applicant was considered by the Screening Committee. The said committee interviewed the applicant on 02.12.2004. Against five available vacancies in Group 'C' cadre, the cases of ten candidates were considered. The case of the applicant containing following particulars were placed before the Screening Committee:-

Date of Birth	27.09.1968
Educational Qualification	Hr. Secondary
Dependents	2 sons (Prasant & Vikrant) beside herself.

Her assets and liability position is as under:

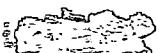
Family pension	Rs.7106/-
GPF	Rs.3,20,227/-
DCRG	Rs.3,50,000/-
CGEGIS	Rs. 81,000/-
GPF Link Insurance	Rs. 60,000/-
Assets	A LIG category house of Rajasthan Housing Board Scheme and a Residential plot area measuring 328Sq.yards in Shanti Vihar Sanganer.

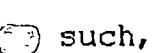
The Screening Committee after considering the aforesaid particulars of the applicant found that she was not fit for appointment. Hence the case of the applicant was rejected. The respondents in the reply affadavit have categorically stated that the Screening Committee had applied its mind judiciously not only in the case of the applicant but in nine other similar cases. According to the respondents, since number of applications for consideration on compassionate ground were just double of the vacancies meant for the purpose, as such it was not possible for the Screening Committee or any authority to recommend all applicants. The respondents have further stated that the family has received Rs.5,93,630/- (excluding GPF & Link Insurance) on the death of the husband of the applicant. It is further stated that applicant is receiving Rs.7106/- plus DA as family pension. The size of the family is small and the family owns own house at Jaipur and also a residential plot measuring 328 Sq. yards at Sanganer. The respondents have further stated that the applicant while applying for appointment on compassionate ground in prescribed proforma has declared that she has a LIG House and a residential plot measuring 328 Sq. yards as immovable property. The respondents have further stated that it is further reiterated on 02.12.2004 on the date of personal interview against column No. 7 pertaining to assets in a form and she has undertaken it that the information furnished by her are true. Thus the applicant is not entitled to any relief. The respondents have also placed on record the copy of the

original application as well as undertaking given by the applicant on 02.12.2006 as Annexure R-1 which is at pages No. 25 & 28 of the Paper Book.

4 The applicant has filed rejoinder. Alongwith the rejoinder, the applicant has placed on record the allotment/possession letter in respect of House No. 61/124, which is in the name of Brijesh Kumar Agarwal. From perusal of the allotment letter, it is clear that the house has been allotted under the Mansarovar Scheme, Jaipur. Similarly, the applicant has also placed on record the allotment/possession of House No. 61/125 which is in the name of Kaushal Pathak pertaining to Mansarovar Scheme. It is stated in the rejoinder that the plot which has been alleged to have been said as the property of the applicant does not belongs to her.

5 The matter was listed for hearing on 13.3.2006. On that date, the matter was adjourned to 12.4.2006 in order to afford further opportunity to the applicant to disclose as to who is the owner of LIG House and plot measuring 328 Sq. yards in Shanti Vihar. The applicant has not choosen to avail this opportunity despite specific order of the Tribunal and has not disclosed as to who is the owner of the LIG Plot and plot measuring 328 Sq. yards which according to the respondents belongs to the applicant as she has given declaration/undertaking to that effect in the proforma prescribed for grant of compassionate appointment, which was

filled by the applicant and again such declaration was given by her on 02.12.2004 in personal interview by the Screening Committee. Accordingly, the matter was heard today. I am of the view that the applicant has not made out any case for grant of any relief. Admittedly the applicant's family consists of widow and two minor sons. From the material placed on record, it is evident that the family has received after the death of the husband of the applicant 

Rs.3,20,227 as GPF, Rs.3,50,000/- as DCRG, Rs.81,600/- as CGEGIS, Rs.60,000/- as GPF Link Insurance and Rs.1,62,030/- as Leave Encashment. Further it has come on record that the family is receiving Family Pension amounting to Rs.7106/- plus DA. Besides this, the family is having a LIG House of Rajasthan Housing Board and a residential plot area measuring 328 Sq. yards in Shanti Vihar, Sanganer. Thus it cannot be said that the condition of the family is  such, which requires immediate assistance. The only contention raised by the learned counsel for the applicant was that the Screening Committee has wrongly taken into consideration the LIG House and the plot bearing 328 Sq. yards as assets of the family, as such the case of the applicant has not been considered by the Screening Committee in the right perspective. Despite opportunity given to the applicant to this effect, the applicant has not placed contemporaneous record that she is not the owner of the LIG House and the plot measuring 328 Sq. yards. On the other hand, the respondents have placed on record sufficient material to show  that the applicant is the owner of the LIG House and a

residential plot measuring 328 Sq. yards as per declaration in her application and again reiterated by her on 02.12.2004 at the time of interview. As such contention of the learned counsel for the applicant cannot be accepted. That apart, even for argument sake, this aspect of the matter is ignored, even then I am of the view that the applicant has received monetary benefits amounting to approximately 10 lakhs. Besides this, the family is drawing monthly pension in the sum of Rs.7106/- plus DA which in any case will be more than Rs.10,000/- per month. As such, it cannot be said that the aforesaid amount is not sufficient to maintain the family consisting of widow and two minor sons. The Apex Court has held that compassionate appointment cannot be claimed as a matter of right. In fact it is in violation of the constitutional mandate contained under Article 16 of the Constitution of India and appointments in public service should be made strictly on the basis of open invitation of applications on merit.. As such compassionate appointment which is exception to this general rule, can only be given in exceptional cases where the condition of the family was so indigenous that family will not be able to meet the crisis that a job is to be offered to the eligible member of family. Such is not the condition here. As such the present OA is dismissed with no order as to costs.


(M.L. CHAUHAN)

MEMBER (J)

AMQ