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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

29.1.2007

OA 205/2006

Mr. Amit Mathur, counsel for applicant.
Mr. T. P. Sharma with Shri Hemant Mathur, counsel
for respondents.

Learned counsel for the applicant submits
that he does not want to file any rejoinder.

Let the matter be listed for final hearing
on 27.2.2007.

*rejoinder not
filed.
by*


(M. L. CHAUHAN)
MEMBER (J)

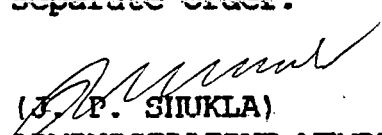
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OA No. 205/2006.

27.02.2007.

Mr. Amit Nath Mathur counsel for the applicant.
Mr. Tej Prakash Sharma counsel for the
respondents.

Heard. The OA has been disposed of by a
separate order.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. K. GUPTA)
JUDICIAL MEMBER

P.C./

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.205/2006.

Jaipur, this the 27th day of February, 2007.

CORAM : Hon'ble Mr. M. K. Gupta, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

Shri Gopichand
S/o Late Sh. Shrawan Kumar
Aged about 23 years,
R/o 119/20, Uniyaro Ki hawali,
Chandpole Bazar,
Jaipur.

... Applicant.

By Advocate : Mr. Amit Nath Mathur.

Vs.

1. Union of India through
Its Secretary,
Department of Revenue,
Ministry of Finance,
New Delhi.
2. The Chief Commissioner,
Central Excise & Custom,
NCR Building, Jaipur.
3. Senior Accounts Officer (ADM),
Central Excise & Custom,
Department of Revenue,
New Delhi.

... Respondents.

By Advocate : Shri Tej Prakash Sharma.

: O R D E R (ORAL) :

The applicant's father, Shri Shrawan Kumar died in
harness on 21.7.1999. At that time, he was minor. On
attaining majority, a claim was laid by his mother for
compassionate appointment which has been rejected vide

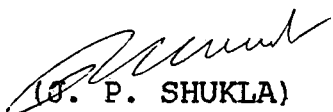
communication dated 6.8.2001 stating "due to non availability of vacancy for compassionate appointment in Gr.D cadre, the request of Smt. Narmada, W/o Late Shri Shravan Kumar cannot be acceded to". Learned Counsel for the applicant pointed out that in the reply filed to the OA respondents have repeatedly contended that the vacancy was not available in the SC category. In other words, he was contending that the appointment cannot be confined to vacancies for a particular category and he has a right of consideration which has to be fair and just. Learned Counsel for the respondents, on the other hand, submitted that earlier the applicant's case was rejected as noticed herein above, which remain unchallenged. Merely because, later on he was directed to furnish certain documents on 13.4.2004, it did not give any fresh cause of action. Said communication also did not vest any right for his consideration.

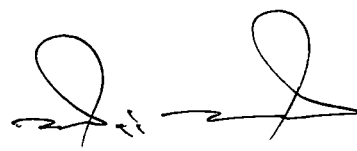
2. We have heard the Learned Counsel for the parties and perused the pleadings.

3. On bestowing our careful consideration, we find that there is a inconsistency in the respondents stands. It is not made clear to us whether the applicant was considered only against General category vacancy or SC vacancy. Even if, the vacancies were not meant for General category, it cannot be said in law that the applicant has a right for consideration only against vacancy meant for

SC community, particularly when the aspirant belongs to said community. We say so for the reason that the aspirants belonging to other community have also equal right of consideration against general vacancies as long as one can achieve the merit.

4. In the circumstances, we dispose of the present application and direct the respondents to pass necessary reasoned and speaking order highlighting each aspect of the fact whether there was a vacancy in the year 2001 or subsequently and if yes, whether he had been considered against which category and post. The respondents should also highlight whether any exercise was undertaken by the respondents while examining his financial condition or not. This exercise shall be done within a period of two months from the date of receipt of a copy of this order. No costs.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. K. GUPTA)
JUDICIAL MEMBER

P.C./