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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

23.07.2009

OA No.219/2006

Mr. V.K.Joshi, counsel for applicant,
Mr. T.P.sharma, counsel for respondents

Heard the learned counsel for the parties.

For the reasons dictated separately, the OA stands disposed
of.



(M.L.CHAUHAN)
Judl.Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 23rd day of July, 2009

OA No.219/2006

CORAM:

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

Mahendra Kumar Bhanwrayat
s/o late Shri Bhairu Lal Bhanwrayat
r/o 21, Meena Colony,
Badanpura,
Jaipur.

.. Applicant

(By Advocate: Shri V.K.Joshi)

Versus

1. The Union of India through the Secretary to the Govt. of India, Ministry of Science and Technology, New Delhi.
2. The Director General, Geological Survey of India, New Delhi.
3. The Director, Geological Survey of India, Airborne Mineral Surveys and Explorating Wing, Vasudha Bhavan, Kumaraswamy Layout, Bangalore.
4. The Deputy Director, Geological Survey of India, Airborne Minerals Surveys and Exploration Wing, Western Region, Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma)



ORDER (ORAL)

The applicant has filed this OA thereby challenging the order dated 12.4.2006 (Ann.A/1) whereby case of the applicant for compassionate appointment has been closed as more than three years has elapsed after expiry of Shri Bhairulal Meena, Driver on 16th January, 2002. The grievance of the applicant is that his case has not been considered in the right perspective.

2. Notice of this application was given to the respondents. The respondents have filed reply thereby opposing the case of the applicant.

3. I have heard the learned counsel for the parties.

4. The learned counsel for the applicant submits that he will be satisfied at this stage if his case is remitted back to the appropriate authority for passing speaking order as his case has not been considered in the right perspective in terms of DOPT instructions dated 5.5.2003 which formed basis for rejecting his case. A copy of DOPT OM dated 5.5.2003 has been placed on record at Ann.A/5. At this

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stage, it will be useful to quote para 2 of the said OM which thus reads:-

"2. It has, therefore, been decided that if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial condition of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year."

5. From perusal of this para, it is evident that case of compassionate appointment in genuine and deserving cases has to be considered in the light of the instructions/policy decision taken by the Government in this behalf in the first year and if it is not possible in the first year due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial condition of the family to arrive at a decision as to whether a particular case warrants extension by one year for consideration for compassionate appointment by the Committee, subject,

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to availability of a clear vacancy within the prescribed quota. If on scrutiny by the Committee, a case is considered to be deserving the name of such a person can be continued for consideration for one year. In terms of Para 3 of the aforesaid instructions, the maximum time limit is three years.

6. From the material placed on record, it is not clear as to whether the respondents have carried out any exercise in terms of para-2 of the OM dated 5.5.2003. As such, I am of the view that instead of keeping the matter pending it will be appropriate if the matter is remitted back to the appropriate authority to re-examine the matter in the light of the instructions dated 5.5.2003 and proceed in the matter in accordance with the policy decision of the Government including instructions dated 5.5.2003. For that purpose, the applicant may make a representation within four weeks to respondents No.2 and in that eventuality, respondent No.2 shall entertain representation and reconsider the matter in the light of the observations made hereinabove and also the contentions raised by the applicant in his representation



and pass reasoned and speaking order within a period of 3 months from the date of receipt of representation.

7. With these observations, the OA is disposed of.


(M.L. Chauhan)
Judl. Member

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