

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

29

ORDERS OF THE TRIBUNAL

14.02.2012

OA No.388/2009

Mr. Surendra Singh, Counsel for applicant.
Mr. Hemant Mathur, Counsel for respondents.

On the request of the learned counsel for the applicant, list it on 20.03.2012.

K.S.Rathore
(Justice K.S.Rathore)
Member (J)

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20/03/2012

OA No.388/2009

Mr. Surendra Singh, Counsel for applicant.
Mr. Hemant Mathur, Counsel for respondents

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

K.S.Rathore
(Justice K.S.Rathore)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 20th day of March, 2012

Original Application No.388/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDICIAL)

Nirbhay Kumar Meena
s/o late Sh. Bal Chand Meena,
r/o 4287, under Nahargarh Fort,
Narsingh Colony,
Purani Basti, Jaipur

.. Applicant

(By Advocate: Shri Surendra Singh)

Versus

1. The Union of India,
through its Secretary,
Ministry of Finance,
New Delhi.
2. Controller and Auditor General of India,
Bahadur Shah Jaffar Road,
New Delhi.
3. Principal Accountant General,
(Civil Audit),
Indian Audit and Accounts Department,
Bhagwan Das Road,
Jaipur.

.. Respondents

(By Advocate: Shri Hemant Mathur)

O R D E R (ORAL)

The applicant's father Shri Bal Chand Meena was serving as Senior Auditor in the Office of Principal Accountant General (Civil Audit), Indian Audit and Accounts Department, Bhagwan Das Road, Jaipur. Shri Bal Chand Meena expired while in service on 6.5.2005. The applicant's mother submitted application regarding employment of her son i.e. Shri Nirbhay Kumar Meena. The applicant also moved application to make his appointment on compassionate grounds after qualifying 10th class examination on 4.6.2007. When the applicant's case for employment on compassionate grounds was not considered then the applicant's mother submitted representation to the Controller and Auditor General of India on 14.10.2008.

2. It is not disputed that the mother of the applicant has been getting family pension to the tune of Rs. 5963/- from 7.5.2005 to 6.5.2012 and was paid gratuity amount of Rs. 3,50,000. It is submitted on behalf of the applicant that for the family of 8 members, the family pension is a meager amount and the family of the deceased employee is in indigent condition, but the respondents passed order dated 5.3.2009 rejecting the application submitted by the applicant's mother. Therefore, this OA is directed against the order dated 1.9.2008 and 5.3.2009 (Ann.A/1 and A/2 respectively) on the ground that heirs of other officials, died while in service, were also allowed post retiral benefits much higher in comparison to the



applicant, but compassionate appointment has been granted to them and details of as many as 8 persons have been given in para 15 of the OA. Thus, action of the respondents rejecting the application for appointment on compassionate ground is illegal, arbitrary and also in violation to the Article 14, 16(1) and 21 of the Constitution of India.

3. On the contrary, the learned counsel appearing for the respondents have strongly controveered the submissions made on behalf of the applicant. It is stated in their reply as well as in oral submissions that the family has received an amount of Rs. 10,46,648 under different heads. It is denied that applicant's case was not considered by the Screening Committee on its merit looking to the availability of vacancy. Regarding the cases referred to in para-15 of the OA, it is stated that cases listed at 6,7 and 8 have not been given employment in this office and employment to case no. 1 and 2 was given having considered their financial condition. In the case of no.1 and 2 only Rs. 6,58,841 and Rs. 6,61,541 respectively have been given to the family. It is also stated that out of 10 cases, 5 cases have been rejected and in 5 cases appointment has been allowed to wards of the deceased Government servants.

4. Having considered the submissions of the respective parties and upon considering the material available on record, it is not disputed that an amount to the tune of Rs. 10,46,648 has already



been paid to the family of the deceased employee and the Screening Committee has considered the case of the applicant and not found fit to be given appointment on compassionate grounds.

5. The proposition of law on the issue has already been settled by the Hon'ble Supreme Court in the case of Santosh Kumar Dubey vs. State of U.P. reported in (2009) 6 SCC 481, wherein the Hon'ble Supreme Court held as under:-

“11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to over come sudden economic crisis occurring in the family of the deceased who had died in harness. But this, however, can not be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.”

6. Further, the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana and ors., reported at 1994 SCC (L&S) 930 held that whole object of granting compassionate employment is to enable the family to tide over the sudden crisis



and not to provide employment. Further observed that mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family and it is only if it is satisfied that 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 members of the family.

7. In Haryana State Electricity Board vs. Naresh Tanwar and Anr., 1996 SCC (L&S) 816 reported at 1996 SCC (L&S) 816, the Hon'ble Supreme Court having considered the decision in the case of Umesh Kumar Nagpal observed that compassionate appointment cannot be granted after a lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad's case, it has also indicated that the very object of appointment of dependent of deceased employee who dies in harness is to relieve the immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years.

8. Applying the ratio decided by the Hon'ble Supreme Court to the present case, admittedly, father of the applicant expired on 6.5.2005 and application seeking compassionate appointment was



made by the applicant after passing the 10th class examination 4.6.2007 i.e. after a lapse of more than 2 years. The family of the deceased has been able to maintain itself and as per assessment of financial condition of the family, the Screening Committee did not find the family in indigent condition. Therefore, as per principle as laid down by the Supreme Court (supra), it is evident that compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate appointment cannot be claimed and offered after a lapse of 2 years time and after the crisis is over. The very fact that family has survived for a considerable long period apparently shows that family has pulled on without any difficulty. Thus, according to ratio decided by the Hon'ble Supreme Court, the applicant is not entitled for appointment on compassionate ground.

9. Therefore, I do not find any merit in this OA and the same being devoid of merit fails, which is hereby dismissed with no order as to costs.



(JUSTICE K.S.RATHORE)
Judl. Member

R/