

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

22.01.2013

OA No. 495/2011

Mr. P.N. Jatti, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard learned counsel for the parties.

The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 495/2011

Jaipur, the 22nd day of January, 2013

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Suresh Singh son of Late Shri Shanker Singh, aged about 35 years, by caste Kumawat, resident of 23 A Ram Nagar H, Extension behind Jyoti Rao, Phule College, Swej Farm, Sodala, Jaipur.

... Applicant

(By Advocate : Mr. P.N. Jatti)

Versus

1. Union of India through the Registrar General (Census), India, Government of India, Ministry of Home Affairs 2/A, Man Singh Road, New Delhi.
2. Director of Census Operation, Census Directorate, 6B, Jhalana Doongri, Jaipur.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The learned counsel for the applicant submitted that the father of the applicant was an employee of the respondent's department and he died on 08.07.2009. That Late Shri Shanker Singh left a big family behind him, as described below:-

1. Mrs.Vidhya Devi (Widow) 56 years
2. Mrs. Suman Kumar (Daughter) 38 years Married
3. Mr. Suresh Singh (Son) 35 years Married
4. Mrs. Pavitra Verma
5. Mr. Govind Singh (Son) 28 years Married.

2. That on the death of the applicant's father, the family entered into the indigent circumstances. Therefore, an application was submitted to the respondents to provide

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appointment on compassionate grounds but the same has been rejected vide order dated 13.01.2011 (Annexure A/1). Aggrieved by this order, the applicant filed the present OA.

3. Learned counsel for the applicant argued that the respondents in their letter dated 13.01.2011 while rejecting the case of the applicant have stated that "it has not been found most deserving or fit case when compared with other similar requests and consequently rejected." Since the case of the applicant has not been considered as most deserving case, therefore, it should be considered in the vacancies of the next year. He further argued that the case of the applicant should be considered upto three years but the respondents have not taken the action as per the instructions on the subject. He further argued that at the time of death of father of the applicant, there was amount of loan, which has to be repaid from the amount received as terminal benefits. The condition of the family of the applicant was very indigent. Therefore, he is entitled for appointment on compassionate grounds as per the guidelines. Therefore, the learned counsel for the applicant argued that the order dated 13.01.2011 (Annexure A/1) should be quashed and set aside and that the respondents be directed to allow appointment on compassionate grounds to the applicant.

4. On the contrary, the learned counsel for the respondents argued that compassionate appointment can be granted to the applicant only if his case is found as most deserving keeping in

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view the financial condition and liability of the deceased Government servant and to support his averment, he referred to note of Manpower Planning and Recruitment (Scheme for Compassionate Appointment) (Annexure R/1).

5. He further argued that Late Shri Shanker Singh died on 08.07.2009 at the age of 58 years and 4 months before scheduled superannuation in February, 2011. After the demise of Shri Shanker Singh, the widow received Rs.13,79,363/- as terminal benefits and she is getting a monthly pension of Rs.10,795/- + DA. As spouse of the deceased Government servant, she is also entitled for medical facilities under CGHS and CS (MA) Rules. The family also owns a residential property worth Rs.10 lacs. The family of the deceased employee comprises his widow, two sons aged 35 and 28 years. The younger son is in service of a private company and living separately. The applicant who is the elder son is stated to be unemployed but he has crossed the age limit of dependent children as per the CGHS and CS (MA) Rules. Therefore, based on the above facts, it cannot be said that it is a case of financial destitution or financial emergency. Thus the family cannot be said to be indigent.

6. With regard to the averment of the learned counsel for the applicant that the case of the applicant be kept alive for a period of three years, the learned counsel for the respondents argued that it is not possible in this case because of family of the applicant cannot be said to be indigent. Since the case of the

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applicant did meet the cut off point, therefore, his case was rejected for appointment on compassionate grounds. Hence, there is no need to consider the case of the applicant again in the subsequent years. The provisions for extension of time beyond one year has been made for only those genuine and deserving cases where it is not possible to offer compassionate appointment due to non availability of regular vacancy and to support his averment, he referred to the DOPT OM dated 05.05.2003 (Annexure R/5). Therefore, he argued that the OA has no merit and it should be dismissed with costs.

7. Heard the rival submissions of the parties and perused the relevant documents on record. It is not disputed that the father of the applicant died on 08.07.2009. The deceased employee left his widow and two sons (both married). The younger son is employed in a private company. The learned counsel for the applicant did not dispute that widow had received Rs.13,79,363/- as terminal benefits and that she is getting family pension of Rs.10,795/- + DA per month. According to the respondents, she is also entitled for medical facilities as per CGHS and CS(MA) Rules. Further the family reportedly also owns a residential property worth Rs.10 lacs. Considering all these facts, the respondents did not consider the family of the applicant as indigent; therefore, they have rejected the claim of the applicant for appointment on compassionate grounds. I do not find any infirmity/illegality in the decision of the respondents in rejecting the claim of the applicant for appointment on

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compassionate grounds. It is a settled law that compassionate appointment is not a vested right. In the case of **Jagdish Prasad vs. State of Bihar**, JT 1995 (9) SC 131, the Hon'ble Supreme Court has held that:-

"The very object of appointment of a dependent of the deceased employee who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family."

In this particular case, it appears that there no immediate hardship and distress caused to the family by the sudden demise of the earning member of the family.

8. In the case of **Punjab National Bank vs. Ashwini Kumar Taneja**, JT 2004 (6) SC 418, the Hon'ble Supreme Court has held that:-

"It is to be seen that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of the employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis."

9. Thus following the ratio as decided by the Hon'ble Supreme Court in the cases of **Jagdish Prasad vs. State of Bihar**, JT 1995 (9) SC 131 and **Punjab National Bank vs. Ashwini Kumar Taneja**, JT 2004 (6) SC 418, it is clear that the applicant is not entitled for any relief from this Tribunal in the present OA.

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10. Thus the OA being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ