

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

29.08.2013

OA No. 561/2012

Mr. Ravi Meena, 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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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 561/2012

DATE OF ORDER: 29.08.2013

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Neeraj Kadam S/o (late) Shri Suresh Kumar Kadam, by caste Jatav, aged about 29 years, R/o Plot No. C-48, Prem Colony, R.P.A. Road, Nehru Nagar, Panipench, Jhotwara Road, Jaipur (Raj.).

...Applicant

Mr. Ravi Meena, counsel for applicant.

VERSUS

1. Union of India through Secretary to the Government of India, Department of Prasar Bharti (BCI), Bhartiya Prasaran Nigam, Doordarshan Mahanideshalya, Copernicus Marg, Doordarshan Bhawan, New Delhi – 110011.
2. The Director Prasar Bharti (BCI), Bhartiya Prasaran Nigam, Doordarshan Mahanideshalya, Copernicus Marg, Doordarshan Bhawan, New Delhi – 110011.
3. The Chief Engineer, Doordarshan Kendra, Kota (Raj.).

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER (ORAL)

The brief facts of the case, as stated by the learned counsel for the applicant, are that the father of the applicant was working in the office of the respondents. During the service period, the father of the applicant passed away on 21.02.2007. He left behind him his widow, two sons namely Nitin and Neeraj and one daughter. After the death of his father, the applicant being elder son applied for appointment on compassionate grounds. His application was forwarded by the Centre Engineer, Doordarshan Maintenance Centre, Kota vide letter dated 09.05.2007 (Annexure A/4) to the Director General

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Doordarshan, New Delhi. But even after a lapse of four years, he did not receive the appointment letter. Consequently, the younger son of the deceased namely Shri Nitin Kumar Kadam also submitted application for appointment on compassionate grounds, which was rejected vide order dated 23/28.09.2011 (annexed with Annexure A/1) on the ground that the application has been filed after four years of death of Shri Suresh Kumar Kadam, as per the provision application has to be submitted within a period of three years of death of the employee.

2. Learned counsel for the applicant further submitted that the legislature has enacted the rules keeping in mind that the dependents of the deceased employee may not suffer undue hardship and financial crisis after the demise of the bread-earner of the family. Therefore, the respondents should have provided appointment on compassionate grounds either to the elder brother or to the applicant. Thus, the entire action of the respondents to decline the prayer of the applicant for appointment on compassionate grounds is illegal, unjust and arbitrary. Subsequently, when he approached the local authorities, he came to know that the respondents have declined to give appointment to the applicant merely on the ground that the financial condition of the family is not so miserable as to give him appointment on compassionate grounds.

3. Learned counsel for the applicant also submitted that the respondents have supplied the Minutes of the Meeting of the Committee held for considering appointment on compassionate grounds under RTI. A bare perusal of the minutes shows that

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not even a line has been recorded of the reason for not giving appointment on compassionate grounds to the applicant.

4. Learned counsel for the applicant further submitted that the financial condition of the applicant is very miserable as there is none of the family members of the applicant is employed in any Government service. Thus, based on the above facts, the applicant is entitled for appointment on compassionate grounds, therefore, the directions be given to the respondents to consider the candidature of the applicant for appointment on compassionate grounds.

5. On the contrary, learned counsel for the respondents submitted that according to Compassionate Appointment Scheme 1998 of DOP&T, the aim and objectives of making appointment on compassionate grounds is to help the family of deceased government servant to tide over the immediate financial crisis/emergency. Simultaneously, it has also been stipulated that such compassionate appointments can be made against the 5% of vacancies falling under Direct Recruitment Quota in any Group 'C' and 'D' posts only.

6. Learned counsel for the respondents further submitted that the case of the applicant was considered by the Compassionate Appointment Committee in its meetings for the years 2008, 2009 and 2010. However, the case was not recommended by the Committee for appointment as he did not come under the most deserving cases short-listed against 'the available vacancies (5% of the total vacancies of DR quota in Group 'C' & 'D' administrative cadre posts). He further stated that the

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applicant is married and is not a dependent under the Rule 54 of CCS (Pension) Rules, 1972 for claiming appointment on compassionate grounds, which is strictly for dependents of a deceased Government employee.

7. Learned counsel for the respondents also stated that thereafter, Smt. Vidhya Kadam submitted another application to give compassionate appointment to her other son namely Nitin Kumar Kadam. The said application was rejected on the ground that such application was filed after a lapse of 4 years & rejection of the case of applicant and the decision in this regard has also been communicated to her vide letter dated 23/28.09.2011.

8. Learned counsel for the respondents further submitted that the widow of the deceased Government official is getting family pension at the rate of Rs. 10,733/- (which has since been revised according to 6th CPC). In addition to the above, immediately after the demise of the Government employee, the family has been paid Death-cum-Retirement Gratuity of Rs. 3,50,000/-, General Provident Fund amount of Rs. 6,16,784/-, Central Government Employees' Insurance Scheme amount of Rs. 94,292/- and an amount of Rs. 1,73,867/- on account of leave encashment. Further, the family has own residential house.

9. Learned counsel for the respondents drew my attention to Office Memorandum dated 04.04.2011 (annexed with Annexure A/1) in which detailed reasons have been given for not considering the case of the applicant for appointment on

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compassionate grounds. He further drew my attention to a comparative statement placed before CAC for appointment on compassionate grounds. In this committee, requests for compassionate appointment received from the dependents of Government Servants in harness during 2007 were also considered. In this list, the name of the applicant Shri Neeraj Kadam is at Sl. No. 6. In this statement, the details of the total terminal benefits separately for each items have been given. The details of any other source of income of the dependent, details of moveable and immoveable property, details of dependent if working anywhere else, medical factors like any handicap etc. of dependent, other family circumstances like number of daughters / sons whether minor or major, marriageable daughters, etc. have also been given. After considering all the aspects in the CAC remarks column, it has been mentioned that "more deserving requests for Group 'C' post are available. Not recommended by CAC". Thus, he argued that the case of the applicant has been duly considered but rejected as there were more deserving candidates than the applicant.

10. Learned counsel for the respondents further submitted that the compassionate appointment is not a vested right and therefore, the applicant has no right for appointment on compassionate grounds. He has only a right of consideration. The respondents have considered his request and rejected it. Therefore, there is no merit in the Original Application and it should be dismissed with costs.

11. The applicant has also filed rejoinder to the written reply.

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12. Heard the learned counsel for the parties and perused the documents available on record.

13. It is not disputed that the case of the applicant has been considered by the respondents. After due consideration vide Office Memorandum dated 04.04.2011, it was informed that the case of Shri Neeraj Kadam was considered but was not recommended for appointment. Relevant para 2 & 3 of the Office Memorandum dated 04.04.2011 are quoted below: -

"2. Request of Shri Neeraj Kadam, son late Shri Suresh Kadam, Ex. Sr. Engg. Asstt., DMC, Kota was placed before Compassionate Appointment Committee (CAC) for the 3rd time on 29.11.2010. Committee in its meeting considered the request of Shri Neeraj Kadam along with other applicants for appointment for to the post of Group 'C' (LDC). Due consideration was given to financial and economic condition, liabilities, size of the family, age of the Children, the essential need of the family etc. as laid down in DOP&T's guidelines contained in their O.M. No. 14014/19/2002-Estt. (D) dated 5.5.2003 to all the applicants.

3. Compassionate Appointment Committee (CAC) recommended most deserving applicants for appointment ground. Since the quota prescribed for compassionate appointment is limited to 5% of total vacancies that arise in Group C & D post in a year, it is not feasible to accommodate all the applicants. The case of Shri Neeraj Kadam was considered but was not be recommended for appointment. It is requested that the he may be informed accordingly."

14. From bare perusal of the Office Memorandum dated 04.04.2011, it is clear that while considering the case of the applicant for appointment on compassionate grounds, due consideration was given to financial and economic condition, liabilities, size of the family, age of the children, the essential

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need of the family etc. as laid down in DOP&T's guidelines contained in their O.M. dated 05.05.2003.

15. Since it was not feasible to accommodate all the applicants, therefore, most deserving candidates were offered appointment on compassionate grounds.

16. I have also perused the Annexure R/1, which is a comparative statement placed before the CAC in which the name of the applicant appears at Sl. No. 6. The perusal of this comparative statement also shows that the case of the applicant has been considered on various parameters and after considering the case of the applicant, the view of the committee has been recorded in the last column as CAC remarks. The CAC remarks are quoted below: -

"More deserving requests for Group 'C' post are available. Not recommended by CAC."

17. Moreover, the respondents have categorically stated that the case of the applicant was considered by the Compassionate Appointment Committee in its meetings for the year 2008, 2009 and 2010 but the case was not recommended by the Committee for appointment as the case of the applicant did not come under the most deserving cases short-listed against the available vacancies.

18. Therefore, on the basis of the above discussions, I am of the considered view that the applicant's case has been duly considered by the respondents. I do not find any irregularity or arbitrariness in the action of the respondents. Moreover, it is settled law that compassionate appointment is not a vested

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right. The applicant has not been found as the most deserving candidate for appointment on compassionate grounds. Thus, the applicant has not been able to make out any case for the interference by this Tribunal.

19. Consequently, the Original Application being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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