

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

04.07.2013

OA No. 847/2012 with MA 416/2012 & MA 199/2013

Mr. Babu Lal Gupta, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard learned counsel for the parties.

The OA as well as MA are 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. 847/2012

With

MISC. APPLICATIONS NO. 416/2012 & 149/2013

Jaipur, the 04th day of July, 2013

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Kanhaiya Lal Gurjar son of Late Shri Hardev Ram Gurjar, aged about 37 years, resident of Village Lamaya Mewal, Post Chandwaji, Tehsil Amer, District Jaipur (Rajasthan).

... Applicant

(By Advocate: Mr. Babu Lal Gupta)

Versus

1. Union of India through Secretary Ministry of Defence, New Delhi.
2. The Garrison Engineer through Chief Draftsman, Khatipura Road, Jaipur (Rajasthan).
3. The Chief Engineer, Jaipur Zone Headquarters, Power House Road, Bani Park, Jaipur (Rajasthan).
4. The Commander Works Engineers, Head Quarters, Power House Road, Bani Park, Jaipur (Rajasthan).

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed this OA praying for the following reliefs:-

- (a) to quash and set aside the impugned orders dated 01.03.2003 (Annexure 3) and dated 27.1.2003 (Annexure 1), passed respondent no. 1 and 2 respectively, holding the same illegal, and unjustified.
- (b) to hold that the applicant is liable to get compassionate appointment in respondent department;
- (c) to direct the respondent to again consider the case of the applicant for appointment on compassionate ground and give him such appointment accordingly with all consequential benefits.

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(d) Any other order which this Hon'ble Tribunal deems just and proper in the facts and circumstances of the case may also be passed in favour of the applicant."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant's father, Late Shri Hardev Ram Gurjar, expired on 13.10.2000 while in service in the office of respondent no. 1. He left his wife, two daughters and two sons.

3. That due to the sudden death of father of the applicant, the applicant and other members of the family who were dependant of Late Shri Hardev Ram Gurjar, came into acute financial distress and were suffering from financial crisis. Therefore, an application was moved alongwith the relevant documents before the respondent no. 1 by the mother of the applicant on 13.11.2000 for giving appointment on compassionate grounds to the applicant (Annexure 2).

4. That the respondents vide letter dated 01.03.2003 (Annexure 3) informed the applicant that the application of the applicant for giving compassionate appointment has been rejected by respondent no.2 vide order dated 27.01.2003 (Annexure 1).

5. The learned counsel for the applicant submitted that the case of the applicant has been rejected illegally, arbitrarily and without giving any reason as to who and why the applicant's case was not deserving in comparison to other

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candidates. The applicant's case has been rejected without proper application of mind and following guidelines & instructions in this regard.

6. That being aggrieved by the order passed by the respondents, rejecting the application of the applicant for compassionate appointment vide order dated 27.01.2003, the applicant preferred a Writ Petition before the Rajasthan High Court, Jaipur Bench, which was decided vide order dated 21.09.2012 holding that the matter pertains to the jurisdiction of Central Administrative Tribunal. Therefore, the petitioner would be at liberty to maintain the OA before Central Administrative Tribunal and he would be at liberty to seek condonation of delay on the aforesaid ground.

7. The learned counsel for the applicant further submitted that the respondents have not disclosed as to why and how the other persons who have been said to be more deserving and on what basis their cases were found comparatively more favourable for giving them appointment on compassionate grounds in comparison to the applicant. Therefore, the applicant be given appointment on compassionate grounds as he has a genuine & fit case for giving appointment on compassionate grounds.

8. The learned counsel for the applicant further submitted that the very object of appointment on compassionate grounds to the dependants of Government servant is to

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enable the family to face sudden crisis and financial distress and to get over the emergency. Therefore, the OA be allowed and the respondents be directed to give appointment on compassionate grounds to the applicant.

9. On the contrary, the learned counsel for the respondents submitted that the OA of the applicant has become infructuous because the case of the applicant has been considered by the respondents for the vacancies of 2009-10, 2010-11 and 2011-12 and to support his averments, he drew my attention to Annexures filed alongwith MA No. 149/2013. He submitted that the prayer of the applicant in the OA is to quash & set aside the order dated 27.01.2003 (Annexure 1) and order dated 01.03.2003 (Annexure 3). The respondents have again considered the case of the applicant on three more occasions and the applicant has not challenged the subsequent orders passed by the respondents dated 22.12.2012 (Annexure MA/1), order dated 29.12.2012 (Annexure MA/2) and order dated 21.01.2013 (Annexure MA/3). Since fresh orders have been passed by the respondents and the applicant has not challenged these orders, therefore, no relief can be given to the applicant in the present OA.

10. Heard the learned counsel for the parties and perused the documents on record. I am in agreement with the averments made by the learned counsel for the respondents that since the case of the applicant has been reviewed by the

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respondents and fresh orders have been passed on 22.12.2012 (Annexure MA/1), 29.12.2012 (Annexure MA/2) and 21.01.2013 (Annexure MA/3) and the applicant has not challenged these orders, therefore, the OA filed by the applicant has become infructuous.

11. Even on merit, according to letter dated 21.01.2013 (Annexure MA/3), addressed to the applicant, it has been clearly mentioned in Para nos. 6, 7 and 8 of the letter that the case of the applicant has been examined on three occasions for the recruitment years 2009-10, 2010-11 and 2011-12.

The relevant paras are reproduced below:-

"6. The Board of Officers has considered your case a **fresh as first look** as per merit drawn alongwith other candidates **for the recruitment year 2009-10.** only 03 Nos. vacancies received from Govt. of India for the recruitment year 2009-10 for compassionate ground. The cut off marks of selection for compassionate appointment was 93 marks and your marks was 70. Your case was considered for compassionate appointment but due to low in merit, compassionate appointment had not been offered to you. The same was intimated to you vide HQ CE Jaipur Zone Speaking Order No. 15010/Gen/Vol-II/2596/E1B® dt. 22 Dec 2012.

7. The Board of Officers has considered **your case for 2nd look** as per merit drawn alongwith other candidates **for the recruitment year 2010-11.** Only 06 Nos. vacancies received from Govt. of India for the recruitment year 2010-11 for compassionate ground. The cut off marks of selection for compassionate appointment was 84 marks and your marks was 70. Your case was considered for compassionate appointment but due to low in merit compassionate appointment had not been offered to you. The same was intimated to you vide their letter No. 15010/Gen/Vol-II/2625/E1B(R) dated 29 Dec. 2012.

8. The Board of Officers has considered **your case for 3rd look** as per merit drawn alongwith other candidates **for the recruitment year 2011-12.** Only 07 Nos. vacancies received from Govt. of India for the recruitment year 2011-12. The cut off marks of

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selection for compassionate appointment was 80 marks and your marks was 70. Your case was considered for compassionate appointment but due to low in merit, compassionate appointment has not been offered to you. **Your case is not be eligible for re-consideration in next recruitment year and the case for compassionate appointment may be treated as closed.**

12. From the perusal of contents of these Paras, it is clear that for the Recruitment year 2009-10, only three vacancies were there for appointment on compassionate grounds. The cut off marks of selection for compassionate appointment were 93 and the marks of the applicant were 70. Therefore, he could not be selected being low in merit.

13. Similarly for the recruitment year 2010-11, there were six vacancies for appointment on compassionate grounds. The cut off marks of the selection for appointment on compassionate grounds were 84 and the marks of the applicant were 70. Therefore, again due to low merit, the applicant could not be selected for appointment on compassionate grounds.

14. Similarly for the recruitment year 2011-12, there were seven vacancies. The cut off marks of selection for compassionate appointment were 80 whereas the marks of the applicant were 70. Therefore, he could not be given appointment on compassionate grounds because he was low in merit.

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15. Even as per earlier order dated 27.01.2003 (Annexure 1), the applicant's position stand at sr. no. 50, scoring 57 marks as per relative merit points. The applicant was not considered for appointment on compassionate grounds due to more deserving cases and non availability of vacancies at that time also.

16. Thus from the perusal of the above facts, it appears that the respondents have considered again & again and the applicant being low in merit could not be considered for appointment on compassionate grounds. It is settled law that appointment on compassionate grounds is not a legal right. The applicant has been considered on four occasions and on all four occasions he being low in merit as compared to deserving candidates, he could not be given appointment on compassionate grounds. Therefore, I find no infirmity in the orders passed by the respondents. The applicant is not entitled for any relief in the present OA.

17. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

18. In view of the order passed in the OA, the MA Nos. 416/2012 & 149/2013 are disposed of.

Anil Kumar
(Anil Kumar)
Member (A)

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