

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**OA No. 799/2013 with MA No. 404/2013**

Order reserved on: 09/08/2016

Date of order: 08/09/2016

**Coram:**

**Hon'ble Ms. Meenakshi Hooja, Administrative Member**

Ashish Mathur s/o Late Shri Ashwani Kumar Mathur, aged about 23 years, C/o Shri Raj Kumar Sharma S/o Shri Moti Lal Sharma, Resident of Near Bhairav ji Temple, Namak Katra, Bharatpur, Rajasthan.

.....Applicant

By Advocate: Shri Amit Mathur.

**VERSUS**

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Commandant, Ammunition Depot, Bharatpur, Rajasthan.

.....Respondents

By advocate: Shri D.C. Sharma.

**ORDER**

This original application has been filed by the applicant being aggrieved with the denial of appointment on compassionate grounds vide order dated 27/01/2012 (Annexure-A/1) and thereby seeking the following relief:

"In view of the facts and circumstances stated herein above, the applicants prays that this Hon'ble Tribunal may be pleased to allow this application and may also be pleased to call for and peruse the relevant record if so pleases and :-

By issue of appropriate order or direction the respondents may be directed to give appointment to the applicant on compassionate grounds."




2. The hearing of the case was commenced on 19/05/2016 and during the course of hearing, it was noted that the documents listed as enclosed with Annexure-R/12, (filed by the respondents with reply) which is the letter dated 24/10/2010 of Ammunition Depot, Bharatpur to DG OS (OS-8C), MGO Branch, IHQ Mod (Army), DHQ, PO, New Delhi-110011, had actually not been filed with the said Annexure-R/12. Therefore the respondents were directed to produce the letter along with relevant enclosures/documents so that the case could be appreciated better. Learned counsel for the respondents filed the relevant record as above today i.e. on 09/08/2016, after providing a copy to the counsel for the applicant and the same was taken on record and thereafter hearing of the OA was continued further.

3. Learned counsel for the applicant submitted that Shri Ashwani Kumar Mathur, the father of the applicant, died on 22/07/2008, while working as a painter in respondent department i.e. Ammunition Depot Bharatpur, Rajasthan. At the time of his death he left behind his wife Smt. Rama Mathur, one elder daughter Vandana Mathur (married), three sons, Shri Rahul Mathur, Shri Ashish Mathur, Shri Pradeep Mathur and one younger daughter Ms. Poonam Mathur. After the death of his father, the applicant applied for compassionate appointment vide application dated 18/12/2008. The case was considered for the first time by the Annual Board of Officers on 30/03/2010 against vacancies for the ADRP year 2007-08 but his case was not recommended for the appointment due to him being low in merit and the number of vacancies being limited. In this regard,


counsel for the applicant referred to Annexure-A/1 dated 27/01/2012 in which it has been mentioned that 46 points were scored by the applicant whereas last candidate recommended for appointment got 59 points. Thereafter his case was considered for the second time for Group-'C' post by Annual Board of Officers for the ADRP year 2008-09 and he was provisionally recommended for appointment. The case was processed to AG's branch for approval of the competent authority under Para 10 (a) and (b) of DOP&T OM No.14014/6/94/Estt.(D) dated 9<sup>th</sup> October, 1998 as the family was already having an earning member. Counsel for the applicant submitted that as his elder brother Shri Rahul Mathur was appointed in Ammunition Depot, Bharatpur in the office of the respondents in the year 2000, AG's branch sought official/collaborative evidence from him and on its directions, certain physical verification were also carried out by the respondents to ascertain whether the applicant's elder brother Shri Rahul Mathur was living separately since 2004 and not supporting family of the deceased government servant.

4. Counsel for the applicant further submitted that case of the applicant was thereafter rejected vide Annexure-A/1 dated 27/01/2012 chiefly on three grounds. In the first place, it has been stated that as per Ration card dated 28/02/2002 Shri Rahul Mathur is residing with his family consisting of eight members and the new Ration Card submitted by Shri Rahul Mathur is dated 17/05/2010 by which his name has been deleted from combined ration card of the family which indicates that the same has been made after the death of the deceased Government Servant and even after the application was submitted on

18/12/2008 by the applicant for appointment on compassionate ground. Secondly, it has been observed in the order that in the Voter Identity Card issued by the Election Commission of India on 22/03/2006 address of Shri Rahul Mathur has been shown as 212, Vasan Gate, Ward No. 33, Bharatpur and which is also address shown in the Voter Identity Card of Smt. Rama Mathur, the widow of Late Shri Ashwani Kumar Mathur and mother of Shri Rahul Mathur as well as of Shri Ashish Mathur, the applicant. It has been observed that though, it has been stated by Shri Rahul Mathur in his affidavit dated 09/11/2010 that he is living separately w.e.f. December 2004 but this is contradictory to the position of address in Voter Identity Card. It has also been noted in the order, that though Shri Rahul Mathur was appointed in the Ammunition Depot, Bharatpur on 30/03/2000, but he did not make any application to the respondent department for change of his address. It has been further stated that it is evident from the physical verification report that Shri Rahul Mathur was physically residing with his mother at 212, Vasan Gate, Ward No. 33, Bharatpur. Therefore, on these grounds, it has been held that Shri Rahul has failed to show conclusive evidence that he is residing separately from the bereaved family since or before 2004 and on the said basis after adding the income of Shri Rahul Mathur of Rs. 12823/- per month in the total points, the total points of the applicant have been got reduced by 5 points, and accordingly the 46 points allotted earlier stood reduced to 41 points, which is less than the last selected candidate for the ADRP year 2008-09 and therefore his has been rejected.



5. Counsel for the applicant vehemently contended that the conclusion drawn by the respondents in Annexure A/1 dated 27<sup>th</sup> January, 2012 is not factually correct and the elder brother Shri Rahul Mathur was actually residing separately from December 2004 and not supporting the family. In this context he referred to the various enclosures / documents, now filed with the letter dated 24/12/2010 (filed as Annexure-R/12 with the reply). Counsel for the applicant pointed out that in the first place in the Introduction to the Statement of the case, at Para 1 it has been clearly mentioned that Shri Rahul Mathur is living separately from Smt. Rama Mathur and family w.e.f. December, 2004. The Police verification report of letter No. 15792 dated 23/11/2010 also collaborates this fact that Shri Rahul Mathur is married and living separately from his family in a rented accommodation for the last five years. He also referred to affidavit dated 09/11/2010 filed by Shri Rahul Mathur that he is living in rented quarter owned by Shri Sunni Sadanand on rent of Rs. 1000/- per month from December 2004. Counsel for the applicant also referred to an affidavit of the house owner dated 12/11/2010 which clearly states that Shri Rahul Mathur is living in his house as tenant for the last five years. In view of these reports, specially that of the Police Authorities, learned counsel for the applicant submitted that there is no ground to believe that Shri Rahul Mathur was not living separately in a rented accommodation from December, 2004 which is much prior to death of Shri Ashwani Kumar Mathur which took place in the year 2008. Counsel for the applicant further submitted that respondents have relied upon the Ration card which is actually




not a document regarding physical verification and further that it is not incumbent to get a new Ration card made immediately upon shifting to a new address. He also submitted that Shri Rahul Mathur has given his permanent address on the Voter ID Card because it is not feasible to give new/changed address every time and that cannot be the basis for concluding that he is living with the family. Thus from the enclosures of Annexure-R/12, now filed by the respondents after the directions of the Tribunal, it is clear that Shri Rahul Mathur, elder brother of the applicant was living separately from the family since December, 2004 and not supporting his family and the conclusion drawn by the respondents that he was living with the family is not correct. He contended that, therefore deduction of five marks by the respondents by including the salary of his brother Shri Rahul Mathur is not proper and order dated 27/01/2012 (Annexure-A/1) is required to be set aside, and as the applicant has obtained 46 marks, the applicant is required to be given companionate appointment for the year 2008-09, because the last appointed candidate had obtained 45 marks and thus prayed for the OA to be allowed.

6. Per contra, counsel for the respondents contended that while father of the applicant Shri Ashwani Kumar Mathur died on 22/07/2008, Shri Rahul Mathur, elder brother of the applicant got a job in the Ammunition Depot, Bharatpur on 30/03/2000. He further submitted that as may be seen from the Annexure-R/1 filed with the reply, Shri Rahul Mathur got married in the year 2009 in April. The Ration card No. 351/33 dated 28/02/2002 also shows that in the year 2002 the name of Shri


Rahul Mathur was included in the family list and new ration card No. 816/33 has been made after deleting his name from the family card, only in the year 2010 i.e. after the death of Shri Ashwani Kumar Mathur in July 2008 and the marriage of Shri Rahul which took place in April 2009. He further submitted that in the Voter ID card issued by the Election Commission in the year 2006 the address of the mother of the applicant Smt. Rama Mathur and brother Shri Rahul Mathur is the same, as may be seen from Annexure-R/4 & R/5. From the above, it is clear that Shri Rahul Mathur was living with the family at least up to 2010. He further submitted that Shri Rahul Mathur though appointed on 30/03/2000 in the Ammunition Depot, never informed the respondent department about change of address which he is required to do so and has not done so even till now and therefore there is no ground to accept that Shri Rahul Mathur was living separately from the family from 2004 December and thereby not supporting his family.

7. Counsel for the respondents further submitted that when the applicant applied for the compassionate appointment he filed an affidavit that he has one minor brother and was given marks accordingly, but as may be seen from Annexure-R/16 (i.e. the secondary examination mark-sheet) his date of birth is 02/08/1989 which means he was of over 19 years at the time of death of his father (which took place on 22/07/2008) and not a minor and therefore even in initial stage in the total of 46 marks, actually five marks given for minor son were wrongly added due to submission of incorrect information.



8. Counsel for the respondents contended that in view of the address in Voter ID card, new Ration card only in 2010 and the fact that Shri Rahul Mathur never gave any information about change of his address to the respondent department (though having a job with the respondents themselves from the year 2000), the conclusion drawn that Shri Rahul Mathur was not living separately from the family since 2004 or prior to that, has been correctly arrived at. Therefore, the points arrived at, after including the salary of Shri Rahul Mathur, brother of the applicant are in order as per Annexure-A/1, and the applicant is not entitled to get the compassionate appointment and prayed for the dismissal of the OA.

9. Counsel for the applicant with regard to having discrepancy / wrong information about the date of birth of Shri Pradeep Mathur, younger brother of the applicant, submitted that no such reason or ground has been given in impugned order dated 27/12/2012 i.e. Annexure-A/1 and therefore it cannot be raised at this stage. He further contended that it is clear from the Police report and the recommendations made by the Ammunition Depot in Annexure-R/12 that Shri Rahul Mathur is living separately from his mother and family from December, 2004. The conclusion of the respondents that Shri Rahul Mathur is not living separately from his family from December 2004 and thereby including his salary for the purpose of calculation of the points to be awarded to the applicant is not correct and reiterated that the order Annexure A/1 is required to be set aside and the respondents be directed to give compassionate appointment to the applicant.





10. Considered the aforesaid contentions and perused the records. The main issue in this OA is that whether the applicant's elder brother, Shri Rahul Mathur, an earning member and having a regular job with the respondents themselves, was living separately from family from 2004 i.e. much prior to the death of Shri Ashwani Kumar Mathur the father of the applicant on 22/07/2008, and not supporting the family. In this regard, guidelines in DOP&T OM dated 09/10/1998 (Annexure-R/8) regarding compassionate appointment in such cases provide in Para 10 (a) and (b) as under:

10. WHERE THERE IS AN EARNING MEMBER

(a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

(b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.


Thus, the guidelines provide for extreme caution in such cases so that this facility of compassionate appointment is not circumvented or misused.



11. On perusal of the pleadings, the following points are noted that: Shri Ashwani Kumar Mathur, the father of the applicant died on 22/07/2008 while working as painter in the respondent department i.e. Ammunition Depot, Bharatpur. Prior to that Shri Rahul Mathur, elder brother of the applicant, got appointment in the same department as Mazdoor on 30/03/2000. The applicant Shri Ashish Mathur applied for companionate appointment vide application dated 18/12/2008. The case of the applicant was considered by the respondents for the first time for the ARDP year 2007-08, but he was not recommended because he got 46 points whereas the last recommended candidate got 59 points.


12. In this calculation of 46 marks, five marks were also given for one minor child, though now it has been brought out by the respondents in the reply that Shri Pradeep Mathur was treated as minor but his date of birth is 01/06/1989 as per the Secondary Examination Mark-sheet (Annexure-R/16) and by that calculation he would be over 18 years of age, both at the time death of the deceased Govt. servant which took place on 22/07/2008 and of the date of submission of application by the applicant i.e. on 18/12/2008. However, as this issue has not been given any reference in the impugned order dated 27/01/2012 (Annexure-A/1), as brought out by the counsel for the applicant, no consideration is being given to it.

13. The case was considered for the second time for ARDP year 2008-09 and was proceeded to AG's Branch for obtaining approval of the competent authority under Para 10 (b) of the Scheme of the 1998 i.e. as the family already had an earning



member. AG's branch sought adequate official/collaborative evidence from the applicant to substantiate the claim that the applicant's brother Shri Rahul Mathur has been living separately since December 2004 and not supporting the family. A physical verification was also carried out by the respondents on the directions of the AG's branch and thereafter on consideration of the information / documents and reports received, order dated 27/01/2012 (Annexure-A/1) was passed.


14. In the context of contentions raised by the counsels during the arguments it is seen that in the Ration card No. 351/33 dated 28/02/2002 which is in the name of Shri Ashwani Kumar Mathur that Shri Rahul Mathur is living with the family as his name is included in it. The new Ration Card No. 816/33 (Annexure R/3) which is dated 17/05/2010, has the name of Shri Rahul Mathur (and that of his wife as it is also clear from the Annexure-R/1 that Shri Rahul Mathur got married in April 2009) by deleting his name from earlier Ration card dated 28/02/2002. Thus, it is clear that new Ration card was made after the death of Shri A.K. Mathur (on 22/07/2008) and also after submission of the application for compassionate appointment by the applicant on 18/12/2008. Further in the Voter ID card which was issued by the Election Commission in the year 2006, address of Shri Rahul Mathur is same as that of his mother which indicates that the residence is the same. Though, Shri Rahul Mathur, brother of the applicant has given an affidavit that he is living in a rented house separately from his mother and other family members from December 2004 and there is also a police report in this regard, but the facts and



detail contained in the Voter ID Card and Ration Cards do not corroborate the same.

15. It is further noted that the respondents have brought out in the reply the fact that after joining the service Shri Rahul Mathur gave the name of his mother as nominee in the PF and after marriage in 2009 he got the nominee changed in favour of his wife, and also duly informed the respondents about his marriage enclosing his invitation card, but he never informed the department about any change of his address that was required to be done as per rules. Had Shri Rahul Mathur given information to the respondent department about change of his address in 2004 itself that would have been, no doubt a more convincing factor in his favour that he has changed his residence and is living in a separate rented quarter, but he failed to do so.

16. Therefore, on the above basis, it appears that the respondents have correctly come to the conclusion that applicant's brother Shri Rahul Mathur cannot be said to be living separately from the family from December 2004 or that he is not supporting the family. DOP&T instructions clearly provide that extreme caution is to be taken when the applicant is applying for compassionate appointment and one member is already an earning member and the respondents appear to have examined the issues on a holistic basis taking all relevant factors into account including the salary of Shri Rahul Mathur elder brother of applicant while calculating the points as per the guidelines. On the aforesaid basis, there appears nothing wrong in reducing 5 marks and calculating the applicant's marks as 41 in place of



46 and as the last candidate who got appointment for the ARDP year 2008-09 got 45 marks, and the order of the respondents Annexure-A/1 appears to be just and fair and in accordance with the policy of scheme of compassionate appointment. Therefore there is no ground to set aside the order Annexure-A/1 dated 27/02/2012 and to grant any relief as sought for by the applicant. The Original Application is accordingly dismissed with no order as to costs. In view of the above order MA No. 404/2013 also stands disposed of.



(Meenakshi Hooja)  
Administrative Member

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