

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.No.060/00201/2014

Orders pronounced on : 19.12.2014
(Orders reserved on : 11.12.2014)**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**

Gurwant Singh son of Late Sh. Didar Singh, Ex-Conductor No. 270, Chandigarh Transport Undertaking-I, U.T. Chandigarh resident of Village Shanaa Sorja Majra, P.O. Algoan Kothi, Tehsil Patti, District Amritsar (Punjab).

By: Mr. J.R. Syal, Advocate

Applicant

Versus

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi-110001.
2. Union Territory, Chandigarh through Secretary Transport, Union Territory, Chandigarh.
3. Divisional Manager C.T.U. and Director Transport, Union Territory, Chandigarh.
4. General Manager, Chandigarh Transport Undertaking, Union Territory, Chandigarh.

By: Mr. Rohit Mittal, Advocate for Mr. Rakesh Verma, Advocate

Respondents

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of the order dated 23.10.2013 (Annexure A-11) vide which his claim for appointment

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on compassionate grounds has been rejected on the basis of instructions dated 6.9.2012.

2. A perusal of the written statement indicates that the claim of the applicant has been rejected on the ground that government servant had died on 19.12.2001 and case of applicant was forwarded on 17.12.2004, after a gap of more than 3 years. As per letter dated 5.5.2003, case of a candidate can be kept under consideration for a period of three years only and such period having expired, the case of the applicant was closed.

3. We have heard learned counsel for the parties and examined the material on the file with their able assistance.

4. We find that the action of the respondents in closing the case of the applicant after a period of 3 years is illegal as the O.M. dated 5.5.2003 providing for closure of a case after a period of 3 years, came to be challenged before the Allahabad Bench of this Tribunal and vide order dated 7.5.2010, the Bench was pleased to quash the said O.M. This decision was challenged in Misc. Writ Petition No. 13102 of 2010 – **Union of India & Others Vs. Smt. Asha Mishra & Another** in the Hon'ble Allahabad High Court and vide order dated 7.5.2010, the decision of Tribunal was upheld observing that department had neither pleaded nor placed any material to show that during the pendency of the application for three years within which case was considered or thereafter the family

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pulled out of financial distress or that it no longer fell within the norms of offering compassionate appointment. It was held that "The Tribunal in our opinion has rightly found that policy for consideration of application by only three years and the consequential order is wholly unreasonable, irrational and is violative of Art. 14 and 16 of the Constitution of India". Judicial notice can be taken of the fact that subsequently even DoPT vide O.M. dated 26.7.2012 withdrew the O.M. dated 5.5.2003 and as such the case of a person could not be closed after a period of three years and could be kept on waiting list for consideration therefor in future.

5. In view of the above discussion, this Original Application is partly allowed. The impugned order, Annexure A-11 to the extent of closing the case of the applicant on the basis of 3 years time limit is quashed and set aside. The respondents are at liberty to keep the name of the applicant in the waiting list till they form an opinion in terms of the observations made by the Hon'ble High Court of Allahabad.

6. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh
Dated: 19.12.2014

HC*