

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

This the **03rd** day of **May, 2018**.

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

Original Application Number. 330/00046/2012

Sunil Kumar Gupta, son of Late S.P. Gupta, resident of Mohalla Daupur (Samajghar), Post Office – Nai Shivpuri Colony, District - Gorakhpur.Applicant.

VE R S U S

1. Union of India through Secretary, Ministry of Central Excise Department, Lodhi Road, New Delhi.
2. Chief Commissioner, Central Excise, 5, Ashok Marg, Lucknow.
3. Commissioner, Central Excise, Civil Lines, Allahabad.
4. Deputy Commissioner, Central Excise, Civil Lines, Gorakhpur.
5. Administrative Officer, Office of the Central Excise, Civil Lines, Gorakhpur.

.....Respondents

Advocate for the applicant : Shri Anil Yadav
Advocate for the Respondents : Shri R.C. Shukla

O R D E R

The applicant has filed the instant O.A seeking following main reliefs: -

“(i). To issue an Original application, order or direction in the nature of certiorari quashing the impugned order

dated 21.11.2011 passed by the respondent no. 2 (Annexure no. 1 to this application).

- (ii). issue an Original application, order or direction in the nature of mandamus directing the respondents to issue appointment letter, in favour of the applicant under the compassionate ground accordance with qualification.
- (iii). issue an Original application, order or direction in the nature of mandamus directing the respondents to consider the appointment of the applicant from year 1997.”

2. The facts of the case, in brief, are that the father of the applicant was employee under the respondents and he died on 11.06.2002 while in service. The applicant's mother thereafter submitted an application for compassionate appointment on 16.07.2002 but no action was taken by the respondents. Similarly, the applicant submitted a representation dated 17.07.2002 (Annexure A-5) followed by series of representations including the application dated 22.02.2009 (Annexure A-11). Thereafter, the case of the applicant was placed before the Screening Committee which took a decision on 21.09.2007 (Annexure A-13) rejecting the claim of the applicant. Aggrieved, the applicant filed O.A No. 757/2009 against the decision dated 21.09.2007. The said decision was set aside by the Tribunal vide order dated 06.05.2011 (Annexure A-

14) and the respondents were directed to consider the application of the applicant in accordance with law.

3. It is the case of the applicant is that the respondents have not complied with the direction of the Tribunal vide order dated 06.05.2011 and that the claim of the applicant has not been considered on merit while passing the impugned order dated 21.11.2011 (Annexure A-1) where the case of the applicant has been rejected.

4. Learned counsel for the respondents submitted that the order of the Tribunal dated 06.05.2011 (Annexure A-14) has been complied with by the respondents vide impugned order dated 21.11.2011 as it is very clearly mentioned in the said order that the Screening Committee held on 17.03.2010 considered the case of the applicant and his case could not be considered for compassionate appointment.

5. It is seen from the impugned order dated 21.11.2011 that the respondents have appointed 8 candidates who were also considered alongwith the applicant and the cases, which were three years old were also considered as a one time measure to decide the long pending applications. The reasons for which the applicant's case could not be considered have not been mentioned

in the impugned order. This Tribunal vide order dated 06.05.2011 directed the respondents to publish the waitlist of applicant in order of date of application to be provided to the applicant and display on the notice board and when the case of the applicant is considered, a reasoned speaking order disclosing full proceeding and result may be declared . It is clear that the respondents have not complied with these directions of this Tribunal since the proceedings of Screening Committee meeting dated 17.03.2010 have not been disclosed to the applicant or enclosed with the pleadings of the respondents or in the CA.

6. The decision of the respondents in the case of the applicant, as communicated in order dated 21.11.2011, is based on the Selection Committee meeting held on 17.03.2010, which was prior to the order dated 06.05.2011 of this Tribunal. In other words, the case of the applicant has not been considered by the Screening Committee after passing of the order dated 06.05.2011 as it would be clear from the impugned order dated 21.11.2011.

7. In view of the above, the impugned order dated 21.11.2011 is not in accordance with the order dated 06.05.2011 passed by this Tribunal in O.A No. 757/2009. Accordingly, this O.A is allowed, the impugned order dated 21.11.2011 is set aside and quashed and the matter is remitted to the respondent No. 2 /

competent authority with direction to place the case of the applicant again before the Screening Committee and to pass a speaking and reasoned order deciding the application for compassionate appointment of the applicant as per the extant rules and guidelines of the Government and to communicate the said order alongwith copy of this proceedings of the Screening Committee meeting to the applicant within a period of four months from the date of receipt of certified copy of this order. No costs.

MEMBER- A.

Anand...