

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD**

(This the 16th Day of April 2019)

Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Original Application No.330/01437/2018

(U/S 19, Administrative Tribunal Act, 1985)

Pawan Shakti aged about 28 years, son of late Nand Kishor, R/o Village and Post Medhan, District Chandauli.

..... Applicant

By Advocate: Shri D.K. Yadav

Versus

1. Union of India through its Secretary, Navodaya Vidyalaya Samiti (An autonomous organization under Ministry of HRD) Department of School Education and Literacy, Government of India, B-15, Institutional Area, Sector -62, NOIDA, District Gautam Budh Nagar, Uttar Pradesh 201309.
2. Commissioner, Navodaya Vidyalaya Samiti B-15, Institutional Area, Sector -62, NOIDA, District Gautam Budh Nagar, Uttar Pradesh 201309.
3. Dy. Commissioner, Navodaya Vidyalaya Samiti, Regional Office, Lekhraj Panna IIIrd Floor, Vikash Nagar, Sector-2, Lucknow (U.P).
4. Jawahar Navodaya Vidyalaya Mahuwar-Kasara, Mau, U.P through its Principal.

..... Respondents

By Advocate: Shri Pankaj Srivastava

ORDER

1. The present Original Application has been filed by the applicant Pawan Shakti seeking following reliefs:-

"(i) To issue a writ, order or direction in the nature of mandamus commanding and directing the respondent authorities to make compassionate appointment of the applicant on regular basis in LDC post under Group C category in any of the institution.

(ii) And/or pass such other and further suitable order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case".

2. Case of applicant Pawan Shakti is that on the death of his father in 2014 while serving in the respondent-organisation on the post of Vice Principal, JNV, District Mau, he filed two application dated 03.08.2017 applying for appointment to the post of LDC in the respondents-institution under the Dying in Harness Rule. Receiving no response from the respondents, applicant filed an OA No 72/2018 wherein by order dated 2.2.2018, respondents were directed to decide the application for compassionate appointment as per rules. Respondent No. in an arbitrary and illegal manner vide impugned order dated 1.6.2018 offered applicant to work on part time/daily basis and that applicant did not join the post.

3. Shorn of all details, applicant seeks the relief of direction to the respondents to appoint him on compassionate grounds to the post of LDC under Group- C category.

4. In the short counter affidavit, respondents have taken the reasoning given by them in the order dated 1.6.2018 that no Group C post is available in the quota of Compassionate ground appointment, however, a list of 67 pending cases for compassionate appointment have been prepared wherein the number of applicant at SI. NO. 23 and compassionate appointment would be offered to him on the availability of vacancy as per the turn of the applicants.

5. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record.
6. It would be pertinent to refer to the relevant part of the letter dated 01.06.2018 as below:

"AND WHEREAS, in compliance of order dated 02.02.2018 of Hon'ble CAT, Allahabad Bench, Allahabad, representations dated 03.08.2017, preferred by Shri Pawan Shakti, has been examined. Shri Pawan Shakti has made two separate representations on 03.08.2017. Under one representation, he has requested to consider his case for compassionate grounds appointment, in view of the deteriorating family conditions. In response to it NVS Hqrs. vide letter dated 24.08.2017 communicated that the no group 'C' post is available, under the quota of compassionate grounds appointment. It has been further stated that he had been placed at Sl. No. 22 of the pending cases for compassionate appointments and his case would be considered on availability of vacancy in the said quota, according to his turn. Under his second representation, which is forming the part of the above O.A as annexure -3, Shri Pawan Shakti has requested to consider his case for appointment to the post of LDC on part time basis in view of the delay in appointment for the regular post on compassionate grounds. His case has been duly considered and vide NVS Hqrs letter dated 08.05.2018 (copy attached), Deputy Commissioner, NVS Regional Office, Lucknow has directed to consider his appointment to a Group 'C' post on contract basis till the time he is not offered appointment on regular basis.

AND WHEREAS as per the rules, in force compassionate appointments can be made upto a

maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' post. Therefore, all the cases recommended for compassionate grounds appointment are considered at NVS Hqrs and listed according to the date of death of the deceased employees. The appointment on compassionate grounds is offered on availability of the vacancy as per the turn of the applicants. Accordingly, the applicant has been placed at Sl. No. 23, at present, in the list of total 67 such cases.

AND NOW THEREFORE, keeping in view the forgoing facts and circumstances, the representation dated 03.08.2017 submitted by Shri Pawan Shakti is disposed of with the relief mentioned above. With this the order dated 02.02.2018 passed by the Hon'ble Tribunal Allahabad Bench, Allahabad in OA NO. 330/72/2018 stands complied with".

7. In view of the facts and circumstances of the case as well as the stand taken by the respondents as coming out in their letter dated 01.06.2018, the O.A. is disposed of with the direction to the respondents to inform applicant about the status of his application by way of written communication within a period of one month from the date of receipt of certified copy of this order. No order as to costs.

(RAKESH SAGAR JAIN)

Member (J)

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