

Reserved

**Central Administrative Tribunal, Allahabad Bench
Allahabad**

Original Application No.330/00144/2014

This the 7th day of December, 2018

Hon'ble Mr. Justice Bharat Bhushan, Member (J)

Sudheesh Kumar son of late Jai Prakash r/o 2/129, Nagla
Mohan, Shahganj, Agra

Applicant

By Advocate: Sri Praveen Kumar Mishra

Versus

1. Union of India through its Principal Secretary, Ministry of Earth Science (Meteorological Department), New Delhi.
2. Director General of Meteorology Mausam Bhawan, Lodi Road, New Delhi-111.
3. Deputy Director General of Meteorology (Upper Air Instrument) Lodi Road, New Delhi-110003.
4. Assistant Meteorologist Grade I (Estt-II) Office of Director General of Meteorology Mausam Bhawan, Lodi Road, New Delhi-III.

Respondents

By Advocate: Sri L.P. Tiwari

ORDER

HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)

The applicant Sri Sudheesh Kumar has filed the Original Application (O.A.) No. 330/00144/2014 for compassionate appointment subsequent to death of his father late Jai Prakash. He has also requested for quashing of impugned order dated 22.5.2013 (Annexure No. 1 to the O.A.) passed by Assistant Meteorologist Grade I for Director General Meteorology, whereby an information was given to the applicant that compassionate appointment could not be given to him in view of presence of more deserving candidates. He was also informed that his case had been closed and will not be considered.

2. Applicant has challenged this order by filing the present O.A. with the following relief:-

- i) The Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 22.5.2013 passed by Assistant Meteorologist Grade I (Estt II) for Director General of Meteorology (Respondent No. 2).
- ii) Direct the respondents to give appointment to the applicant on the basis of compassionate ground in respect of his late father.
- iii) Any order or direction which this Hon'ble Tribunal deem fit and proper in the circumstances of the case may also kindly be issued in the interest of justice.
- iv) cost of the applicant may also be awarded.

3. Father of the applicant late Jai Prakash was appointed on the post of Mechanic Trade I as a permanent employee in the year 2000 in Meteorological Department Branch Agra governed by the Central Govt. of India. Sri Jai Prakash died on 5.11.2008 in the Heritage Hospital, Agra. The applicant moved application for compassionate appointment. Applicant. His mother also made various representations for compassionate appointment. Applicant has already passed High School Examination and Inter-mediate examination from U.P. Board.

4. The department informed the applicant by the impugned order dated 22.5.2013 (Annexure 1 to the O.A.) that he could not be offered appointment on compassionate ground due to other deserving candidates and his case had been closed. The applicant has filed the present O.A. relying upon the circular No. 14014/6/94 Estt (D) Government of India (Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), New Delhi 110001 9.10.1998 and also F.No. 14014/3/2011 -Estt (D)Government of India (Ministry of

Personnel, Public Grievances and Pension (Department of Personnel and Training) North Block, New Delhi dated 26.7.2012.

4. Respondents have filed counter reply and applicant has filed Rejoinder Reply on 16.9.2014. A Supplementary Counter Affidavit was also filed on behalf of the respondents against which Supplementary Rejoinder Reply dated 1.11.2018 is also available on record.

6. Supplementary Affidavit dated 17.4.2018 discloses that Department has never changed his position which is apparent from para 4 to 6 of Supplementary Affidavit, which is reproduced below:-

"4. That during the pendency of the aforesaid original application, the competent authority issued a letter dated 25.8.2017 to the applicant, stating therein that the competent authority has considered the case of the applicant for compassionate appointment against consolidated vacancies for the year 2011-12, 2012-13, 2013-14 and 2014-15 during review committee meeting held on 27.10.2016. A photo copy of letter dated 25.8.2017 issued to the applicant is annexed herewith as marked as Annexure SA-1 to this Supplementary Affidavit.

5. That there were only 17 vacancies for making compassionate appointment during the concerned period and the applicant's position in the merit list was 109. As such the appointment on compassionate ground could not be offered due to non-availability of sufficient number of vacancies and in presence of most deserving candidates.

6. That the applicant was also informed that his request for granting compassionate appointment has been carry forwarded for further consideration against vacancies of subsequent recruitment year subject to availability of vacancies."

7. Administrative Officer (E-II) has also written to the applicant vide letter dated 25.8.2017 that his case for compassionate appointment is still under consideration by the Department. The department has made clear that only 17 vacancies for making compassionate appointment were available during concerned period and position of applicant was 109. Therefore, compassionate appointment to the applicant could not be offered due to non-availability of sufficient number of vacancies and presence of more deserving candidates among applicant. The contents of letter annexed as SA-1 is reproduced as below:-

"The undersigned is directed to convey that the competent authority has considered your request for compassionate appointment against consolidated vacancies for the year 2011-12, 2012-13, 2013-14 and 2014-15 during review committee meeting held on 27.10.2016.

There were only 17 vacancies for making compassionate appointment during the concerned period and your position in the merit list was 109. As such, appointment could not be offered to you due to non-availability of sufficient number of vacancies and presence of more deserving candidates among the applicants.

In view of the above, competent authority has decided to carry forward your request for making appointment on compassionate ground for further consideration against

vacancies of subsequent recruitment year subject to availability of vacancies."

8. It is, therefore, apparent that department itself has not closed the matter of applicant for compassionate appointment. His position in merit list is 109 and department itself has assured the applicant that his name is being carry forwarded for consideration of appointment on compassionate ground against vacancies of subsequent recruitment year. This Tribunal cannot force the department to give appointment to the applicant prior to other deserving candidates whose names find mention prior to the name of applicant.

9. Learned counsel for applicant has fairly conceded this but has insisted that name of applicant should also be considered for compassionate appointment against vacancies of subsequent recruitment year as promised by them in their letter dated 25.8.2018 (SA-1).

10. Considering all facts and circumstances, this Tribunal believe that no useful purpose would be served by keeping this O.A. pending. In view of their letter dated 25.8.2017 (SA-1), impugned order dated 22.5.2013 (Annexure -1 to the O.A.) cannot be sustained.

11. Accordingly, impugned order dated 22.5.2013 (Annexure 1 to the O.A.) is set aside and respondents/competent authority are directed to consider the name of applicant for appointment on compassionate ground on its own merit against vacancies of subsequent recruitment years in accordance with departmental rules as promised by them vide their letter dated 25.8.2017 (Annexure SA-1) in next meeting of competent committee/authority.

12. With the above observation, O.A. is finally disposed off. No order as to costs.

(JUSTICE BHARAT BHUSHAN)
MEMBER (J)

HLS/-