

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01066/2016

Jabalpur, this Thursday, the 25th day of April, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER

Manoj Kumar Yadav, S/o Late Shri Bhagwan Singh, DOB: 16.03.1986, R/o – Village & P.O. Kaura, P.S. Jagdishpur, District Bhojpur, Bihar 802162 -Applicant

(By Advocate – Shri Vijay Tripathi)

V e r s u s

1. Director General, Indian Council of Medical Research, V. Ramlinga Swami Bhawan, Ansari Nagar, New Delhi 110029.
2. Administrative Officer, Indian Council of Medical Research, V. Ramlinga Swami Bhawan, Ansari Nagar, New Delhi 110029.
3. Director, Regional Medical Research Centre for Tribal, Nagpur Road, P.O. Garha, Jabalpur 482003 (M.P.).
4. Administrative Officer, Regional Medical Research Centre for Tribal, Nagpur Road, P.O. Garha, Jabalpur 482003 (M.P.).

-Respondents

(By Advocate – Shri Ashish Shrotri)

O R D E R (O R A L)

The applicant is aggrieved that he has been deprived compassionate appointment by Regional Medical Research Centre for Tribals (respondent No.3).

2. The undisputed facts of the case are that the father of the applicant was working as Attendant with the respondent department and he died in harness on 06.07.2012 leaving behind three sons including the applicant. The applicant, being the eldest son, submitted his application on 23.08.2012 in prescribed manner with a request to provide compassionate appointment.

2.1 The respondents Nos.3 & 4 referred the case to respondents Nos.1 & 2 for orders, who vide their letter dated 18.03.2013 (Annexure A-2) asked the respondent No.3 to take necessary action.

2.2 Respondent No.4 issued a letter dated 01.01.2014 (Annexure A-1) regretting the application for compassionate appointment by saying that the Centre does not have any vacancy for compassionate appointment.

3. The applicant has, therefore, sought for the following relief:

“8. RELIEF SOUGHT:

It is therefore prayed that this Hon'ble Tribunal may kindly be pleased to :-

8.1 Summon the entire relevant record from the possession of respondents for its kind perusal;

8.2 Quash and set aside the order dated 01.01.2014 (Annexure-A/1) with all consequential benefits;

8.3 Command and direct the respondent authorities to consider the case of the applicant for compassionate appointment if, he is found suitable, he should be appointed on suitable post with all consequential benefits;

8.4 Any other order/orders, direction/directions may also be passed.

8.5 Award cost of the litigation to the applicant.”

4. The respondents, in their reply, have submitted that there was only one vacancy of Technician-A, when the case of the applicant was considered and this cannot be filled up through compassionate appointment as the applicant does not possess the essential qualification.

4.1 The respondents are relying on the instructions issued by the Department of Personnel & Training (DoP&T) dated 16.01.2013 (Annexure R-1).

5. It needs to be mentioned that the applicant had filed MA No.200/01020/2016 for condonation of delay, wherein it has been mentioned that after receiving the impugned order dated 01.01.2014 (Annexure A-1), he had approached the Patna Bench of this Tribunal in OA No.628/2015, which was not entertained for want of geographical jurisdiction. He had also approached Hon’ble High Court of Patna where also the W.P

was not entertained on same count and was dismissed on 14.07.2016. Therefore, he has filed the present Original Application before this Tribunal on 07.11.2016.

5.1 Considering the above, MA is allowed and delay in filing the Original Application is condoned.

6. Heard learned counsel for the parties and perused the pleadings and the documents available on record.

7. Learned counsel for the respondents submits that as per the judgment of Hon'ble Apex Court in the case of **State of J&K vs. Sajad Ahmed Mir**, (2006) 5 SCC 766, compassionate appointment can be given only as an exception to the general rule and in case the family has survived and substantial period is over, there is no necessity not to follow the normal rule of appointment.

Findings

8. It is a fact that the compassionate appointment being an exception to the general rule of appointment, can only be claimed strictly in accordance with the terms of scheme. In the present case, it is found that the Government of India, vide Office Memorandum dated 16.01.2013 (Annexure R-1), have

issued such scheme, which is being followed by the respondent department. It can be seen in Para 8 of the said scheme that the time limit for considering applications for compassionate appointment has been reviewed vide OM dated 26.07.2012 and it has been clarified that application for compassionate appointment is to be considered without any time limit and the decision shall be taken on merit in each case.

8.1. In the instant case we find that the father of the applicant died in harness on 06.07.2012 and immediately thereafter the applicant had applied for compassionate appointment on 23.08.2012. Respondent No.1 vide their letter dated 18.03.2013 (Annexure A-2) asked the respondent No.3 to take necessary action. However, respondent No.4 vide their letter dated 01.01.2014 (Annexure A-1) regretted the claim of the applicant for compassionate appointment by stating that the Centre does not have any vacancy for compassionate appointment. Thereafter, it seems that the respondents have not at all considered the case of the applicant for compassionate appointment.

8.2 Further, no details such as number of vacancies available; number of candidates applied for compassionate appointment

and consideration thereof, have been given in the impugned order.

8.3 Keeping in view the facts of the present case, we are of the considered opinion that the reliance placed by the respondents on the decision of the Hon'ble Supreme Court in the matter of **Sajad Ahmed Mir** (supra) is not applicable in the present case. In the matters of **Sajad Ahmed Mir** (supra) we find that the deceased Govt. servant died on 06.03.1987 whereas his son had applied for compassionate appointment after more than four years on 20.09.1991 and the writ petition was filed in the year 1999 i.e. after about 12 years.

9. Having considered all pros and cons of the matter and in the interest of justice, this Original Application is disposed of with a direction to the respondents to consider the claim of the applicant for compassionate appointment on two more occasions and the result thereof should be communicated to him. No costs.

(Navin Tandon)
Administrative Member

am/-