

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No.290/00395/2016

Reserved on : 06.02.2019
Pronounced on:08.02.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

Pradeep Charan s/o Late Shri B.D.Barath, aged about 32 years, r/o Plot No.32, Mahaveer Nagar, Mahamandir, Jodhpur, Rajasthan, his father was last employed in Central Excise, Jodhpur

...Applicant

(By Advocate: Shri. Kailash Jangid)

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, New Delhi – **since deleted**
2. The Commissioner, Central Ecise (Jaipur Zone,) New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-1, Rajasthan
3. The Additional Commissioner (P&V), Central Excise (Jaipur Zone), New Central Revenue Building, statue Circle, "C" Scheme, Jaipur-1, Rajasthan.

...Respondents

(By Advocate: Shri B.L.Tiwari)

ORDER

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant prays for the following reliefs:-

- i) By an appropriate application, order or direction, the impugned order dated 22.6.2016 (Annex-1) may kindly be quashed and set aside qua the applicant.
- ii) By an appropriate application, order or direction, the respondents may kindly be directed to reconsider the candidature of the applicant for compassionate appointment on any suitable post and permit him in the said appointment process.
- iii) By an appropriate application, order or direction, the respondents may kindly be directed to provide the compassionate appointment to the applicant on any suitable post as per his qualification with all consequential benefits.
- iv) Any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant and against the respondents.
- v) Costs of the application may kindly be awarded in favour of the applicant.

2. Brief facts of the case, as stated by the applicant, are that his father while serving on the post of Superintendent, Central Excise expired on 8.1.2004 leaving behind his widow, two daughters and three sons including the applicant. After demise of his father, the applicant submitted application for compassionate appointment, but no response has been received from the respondents. After a lapse of three years, vide letter dated 3.4.2007 the respondents have rejected the claim of the applicant for

compassionate appointment, but the said letter was not received by the applicant due to change of address. Thereafter the respondents again passed order dated 13.7.2009 rejecting the claim of the applicant and communicating that the matter has been closed after completion of maximum prescribed period of three years from the date of death of his father. Aggrieved of the above orders, the applicant has filed OA No.63/2012, which was disposed of vide order dated 15th January, 2013 (Ann.A/11) in the following manner :-

"11. I am accordingly of the view that the case of the applicant is required to be considered on three occasions subject to conditions mentioned in DoPT O.M. dated 5.5.2003. I, accordingly, quash the rejection contained in Annexure A/1 Annexure A2 qua the applicant and direct the respondents to consider his case for compassionate appointment on three effective occasions subject to the conditions mentioned in letter dated 05.05.2003. The first consideration should be made within three months of availability of vacancies or receipt of this order, whichever is earlier. The O.A. is disposed of accordingly with no order as to costs."

The respondents in compliance of the above order considered his case for first occasion but could not find the case of the applicant more deserving and needy in comparison to other candidates and recommended to keep the matter pending for consideration by the next committee and the decision was communicated to the applicant vide order dated 17.6.2013 (Ann.A/12). Aggrieved by the said

order with regard to availability of vacancies, the applicant further filed OA No.489/2013 before this Tribunal. Vide order dated 19th April, 2016, this Tribunal observed that the Committee has kept the case of the applicant pending for consideration by the next Committee and the applicant has not challenged the order dated 17.6.2013 on the ground of erroneous evaluation of his case, or alleged any discrimination. Therefore, there was no reason of interfere with the earlier order. However, direction was issued to the respondents to consider the case of the applicant against available vacancies in the next Committee meeting and grant him compassionate appointment, if found fit as per the Scheme/Rules. The applicant was given liberty to approach the appropriate forum if any grievance remains. Thereafter, the respondents considered the case of the applicant in the meeting of the CRC held on 31.05.2016, but did not find the family in indigent condition and after recommendation of the Committee finally closed the matter vide letter dated 22.6.2016. Aggrieved of the action of the respondents, the applicant has filed the present OA.

3. By filing reply to the OA, the respondents have submitted that case of the applicant was considered sympathetically by the department in the meeting of the

screening committees held on 22.3.2004, 16.12.2004 and 5.4.2006, but due to non-availability of any vacancy under compassionate appointment quota, none of the dependents could be recommended. Thereafter in compliance of the order dated 15.1.2013 passed in OA No.63/2012, his case was considered on three effective occasions in the meeting held on 4.6.2013, 31.10.2014 and thereafter in compliance of the order dated 19.4.2016 passed in OA No.489/2013 his case along with other dependents was considered on third occasion by the committee on 31.5.2016.

The respondents further submitted that the applicant vide his letter dated 14.3.2013 informed the dependents being his grand mother, mother, his two brother, wife and two children and reiterated in his letter dated 31.8.2015, but during verification on a complaint, it was found that wife of applicant is employed as Sr. Teacher in Govt. Sec. School, Punjala, Jodhpur since 8.11.2011 and getting pay Rs. 15300+4200 GP. Younger brother namely Shri Bheem Charan is employed as Sr. Section Engineer, in NW Railway, Jodhpur since 31.10.2014 and getting pay of Rs. 13590+ 4600 GP + other allowances. According to the respondents, the case of the applicant was finally considered by the prescribed committee in its meeting dated 31.5.2016

against the compassionate quota vacancies in Group-C during the year 2015-16 and 2016-17 and after objective consideration of comparative merit of each applicant, found three other candidates more indigent and needy, therefore, their names have been recommended and the case of the applicant was closed finally. Therefore, the respondents submit that the OA is devoid of merit.

4. Heard Shri Kailash Jangid, counsel for the applicant and Shri B.L.Tiwari, counsel for the respondents and perused the material available on record.

5. In the instant case, father of the applicant expired on 8.1.2004. Thereafter his case for compassionate appointment was considered by the screening committee held on 2.2.2004, 16.12.2004 and 5.4.2006, but for want of vacancy, his claim could not be recommended. The applicant thereafter filed OA No.63/2012 challenging rejection of his request, which was disposed of with a direction to consider his case on three effective occasions, subject to conditions mentioned in DoPT OM dated 5.5.2003. The respondents in compliance of the order dated 15.1.2013 passed in OA No.63/2012, considered the case of the applicant in the meetings held on 4.6.2013 and 31.10.2014. Thereafter the applicant also filed OA

No.489/2013. In that matter the Tribunal observed that "the applicant challenged the legality of Annex. A/1 mainly on the ground that had the respondents taken the 04 vacancies for compassionate appointment into account, the case of the applicant would have been recommended for compassionate appointment in the Committee meeting held on 4.6.2013. However, the respondents considered his case again for the second time in Committee meeting dated 31.10.2014 and found 11 more deserving cases than the applicant pending for consideration by the next Committee. Here the applicant has not challenged the order dated 17.6.2013 (Ann.A/1) on the ground of erroneous evaluation of his case, or alleged any discrimination. Therefore, I see no reason to interfere with the earlier order", but, however, directed to consider the case of the applicant in the next committee meeting if found fit as per Scheme/Rules. Accordingly, the respondents considered the case of the applicant, but this time also the screening committee held on 31.5.2016 did not find the case of the applicant more indigent in comparison to other candidates and, therefore, did not recommend his name for the compassionate appointment. The screening committee further recommended to finally close the matter and said decision

was conveyed to the applicant vide order dated 22.6.2016 (Ann.A/1).

6. In view of above, it is clear that the respondents have considered the case of the applicant on a number of occasions i.e. three times before entering into litigation and three times thereafter in compliance of the directions of this Tribunal, but his case could not be found more indigent in comparison to the other more deserving cases, so as to recommend his case for compassionate appointment. So far as the contention of the applicant is concerned that the impugned order dated 22.6.2016 is a non-speaking order and therefore, the same deserves to be quashed, the respondents contended that the order dated 22.6.2016 is just a communication of the decision taken by the competent authority after recommendation of the prescribed committee, and there is no need to pass a speaking order. The respondents produced a letter dated 22.06.2016 along with the recommendations of the committee held on 31.05.2016. After perusal of the same, I am convinced that there is no need to pass a speaking order.

7. It is settled law and the Hon'ble Apex Court in a catena of judgments time and again have reiterated that

compassionate appointment cannot be a source of recruitment and it is made for succour to the family of the deceased who died in harness and which is in indigent condition. In the present case, the respondents have considered the case of the applicant on sufficient number of occasions, but the family was not found in indigent condition. Therefore, I find no reason to interfere in the matter or to quash and set aside the impugned order dated 22.6.2016.

8. The OA is accordingly dismissed with no order as to costs.

(HINA P.SHAH)
Judl. Member

R/