

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/1189/2018

Date of Order: 18.06.2019

Between:

P. Murali Krishna, S/o. late P. Krishna,
Aged 38 years, Occ: Unemployee,
R/o. Plot No. 41, Road No.4,
Anand Nagar, Bandlaguda, Hyderabad – 500 068.

... Applicant

And

1. Union of India, Ministry of Mines,
Rep. by its Secretary,
Department of Mines,
Shastri Bhavan, New Delhi – 110 001.
2. The Director General,
Geological Survey of India,
27, J.L. Nehru Road, Kolkata – 700 016.
3. The Additional Director General,
Geological Survey of India,
Southern Region, GSI Complex,
Bandlaguda, Hyderabad – 500 068.

... Respondents

Counsel for the Applicant ... Mr. T.P. Acharya

Counsel for the Respondents ... Mr. K. Venkateswarlu,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OA is filed for not being considered for compassionate appointment.

3. Relevant facts are that both the parents of the applicant were working in the cadre of Group D in the respondents organisation. Father passed away on 8.10.1995 while in service and as mother was working, no compassionate appointment was offered. Mother too had to retire on medical invalidation. Terminal benefits granted were to the extent of Rs.1,10,000 and the monthly pension was fixed as Rs.3500. The elder brother of the applicant died of cancer on 15.9.1999 and the burden of taking care of his brother's wife and his 2 children fell on the applicant. Mother being sick, her medical expenses of Rs.5000 per month had to be met. Hence, the family is living in a penurious state. Applicant made an application for compassionate appointment which was rejected on 17.2.2005 by the CAC (Compassionate Appointment Committee) and that the same was to be placed before the review CAC as per OM dated 5.5.2003. Unhappy over the rejection, when the applicant moved the Tribunal in OA 865/2007, it was directed to dispose of the representations made by the applicant and accordingly the CAC and review CAC examined the case from 2003 to 2006 on different occasions and rejected the request. Applicant contested the decision dated 24.3.2008 of the respondents in OA 145/2011 wherein a speaking order was directed to be passed after examining the request of the applicant. A speaking order was issued once again, rejecting his request on grounds of relative merit. Applicant lost hope and kept quiet since his case was being rejected on one ground or the other. Suddenly applicant received a letter on 2.3.2017 from the respondents to submit details, which were furnished on 23.3.2017, for considering the case of the applicant for

compassionate appointment. Till date, there is no response and hence, the OA.

4. The contentions of the applicant are that through RTI application he was startled to know that his case was not considered till date by the CAC as was falsely informed by the respondents vide the letter dated 24.3.2008. Hence, the order issued vide letter dated 10/24.3.2010 is a fake order. Applicant has given names of 8 candidates who were less meritorious but were selected. A specific case was quoted wherein Group I officer by name N. Sethuraman passed away leaving a married daughter and a son settled abroad. Yet the wife of the deceased officer Mrs. Shobhana Sethuraman was provided employment in 2004, though she got terminal benefits of more than Rs.7 lakhs and is getting a family pension of Rs.10,000/- per month. Therefore, the applicant alleges favouritism in deciding compassionate appointments.

5. Respondents in their reply statement contend that the applicant has not produced the income certificate as required and is including his brother's family members as dependents, which is not permitted as per rules. Applicant is the only dependent employee. Referring to the directions of this Tribunal, respondents have considered the request of the applicant in 2003, 2004, 2006, 2012 and rejected the case based on relative merit. Recently the respondents have come up with a proviso of considering compassionate appointments 5 times as per letter dated 4.6.2015. Hence details were once again called for, though the applicant case was already considered on 5 occasions viz 10.4.2003, 16.1.2004, 9.9.2004, 2006 and 2011. Respondents assert that calling for details

would not mean that appointment would be given. In regard to the 8 cases and that of the JAG officer, respondents inform that the cases were considered based on relative merit. The mother of the applicant expired on 30.6.2011 and hence, there is no dependent to take care of by the applicant.

6. Heard the applicant counsel. Respondent counsel was absent. Perused the material papers placed on record.

7. I) Applicant made an assertion that his case was not at all placed before the CAC, which he came to know through RTI. Therefore, false information was provided. This is a serious allegation which needs to be rebutted by documentary evidence. Respondents have not produced the same. In all fairness, they should have produced the records to disprove the allegation made by the applicant, more so, the respondents organisation being a model employer it cannot afford its image being dented by allegations of serious nature.

II) a) Applicant has also referred to the wife of a JAG officer being given compassionate appointment which is not as per norms. Being very specific in nature, respondents did not provide adequate details to substantiate their stand excepting to state on relative merit. When the matter is under adjudication for the 3rd time, the respondents need to have exercised caution in furnishing required documents to undo the allegations made by the applicant. Similarly, in respect of the other 8 candidates referred to in the OA.

b) There has to be objectivity in assessing the relative merit so that the applicants are reassured that their cause is in safe hands and that a fair decision would be taken without any bias. Applicants need to know as to how the relative merit has been arrived at. Many G.O.I. Departments like Dept. of Telecom, Dept of Atomic Energy, etc have followed the points system of allotting marks to each attribute like terminal benefits, rented house, pension, dependents, etc to assess the indigent circumstances and decide. In the absence of such an evaluation, complaints of subjectivity would keep cropping up as is seen in the present case.

III) In OA 145 of 2011, vide order dated 15.2.2011 it was observed by the Tribunal as under:

“9. The above paras No.(a) to (f) are not regarding the submissions made by the applicant in the two relevant representations. On the other hand, they relate to rejection of the representations. This cannot be considered to be compliance of the order dated 17th December 2007. Thus, the respondents have not complied with the order dated 17th December 2007 passed in OA no 865 of 2007 of this Tribunal.

10. Accordingly, we hold the impugned order, not being a speaking and reasoned order on the representation dated 27th June 2006 and 29th December 2006, cannot be regarded as a compliance of the order dated 17th December 2007 of this Tribunal. Accordingly, it is quashed and set aside.”

The Tribunal has gone through the order dated 10/24.3.2008 in response to the Tribunal directive, which only states that the case of the applicant was rejected because there is no dependent family member but

it does not reveal the details of others who have been considered and selected so that the decision of the respondents is transparent and objective. More so, when the litigation is getting protracted. For eg. in the case of the JAG officer, it is alleged that the daughter is married and son is settled abroad and that deceased officer's wife is receiving more than Rs.10,000 as pension and terminal benefits greater than Rs.7 lakhs have been granted. General rules for compassionate appointment is to consider cases where the family is living in indigent circumstances. One does not expect different sets of rules for officers and others in respect of compassionate appointment. Hence, the details of relative merit considered by the respondents are to be kept in the public domain as is required by the RTI Act. Applicant has been representing over the years when his mother was alive pleading for compassionate appointment. To address his grievance, the respondents did not reveal details of all those selected and those not selected along with him. Had this been furnished, the grievance could not have persisted. In the absence of such details not being furnished by the respondents in the reply statement, even in the latest round, does call for a closer look of the case. Claiming that his mother passed away in 2011 and that there is no dependent, it is for the respondents to ponder as to whether it is fair to say so, by not letting know the applicant the details of relative merit in objective terms on which they are heavily banking.

IV) However, as the respondents have called for applicant's details once again, it may be appropriate to direct the respondents to reconsider the case of the applicant for compassionate appointment and issue a

speaking and reasoned order with details of candidates selected and those not selected along with the basis in doing so. This ought to be the normal practice in Public administration so that there is no room for any grievance. If the case of the applicant has not been considered once again, let the applicant be provided with the details and furnish relevant documents in regard to issues raised at paras 7 (I), II (a), so that it allays the doubts of the applicant once for all and put the litigation to quietus.

V) Accordingly, the OA is disposed directing the respondents to consider acting as per directions indicated as at para IV supra, within a period of 3 months from the date of receipt of this order. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 18th day of June, 2019

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