

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

Original Application No.21/110/2017

Reserved on: 01.07.2019

Pronounced on: 05.07.2019

Between:

B.N. Jaya Krishna, S/o. late Sri B. Narasimha,
Aged about 41 years, Occ: Unemployee,
R/o. H. No. 1-1-380/2, Ashok Nagar Extension,
Hyderabad – 500 020, Telangana State.

... Applicant

And

1. Union of India, Rep. by its Secretary,
Ministry of Defence, Sena Bhavan,
South Block, New Delhi – 110 011.
2. The Director General,
Defence Research Development Organization,
South Block, New Delhi – 110 011.
3. The Director,
Advanced Systems Laboratory,
Dr. APJ Abdul Kalam Missile Complex,
PO Kanchanbagh, Hyderabad – 500 058.

... Respondents

Counsel for the Applicant ... Mr. G. Jaya Prakash Babu

Counsel for the Respondents ... Mrs. B. Gayatri Varma,
Sr. PC for CG

CORAM:

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

ORDER

2. The OA has been filed for not considering the applicant for compassionate appointment.

3. Brief facts of the case are that the applicant's father Sri B. Narasimha while working as Technical Officer-B, with the respondent organization died leaving behind his wife, daughter and son, who is the

applicant herein. After demise of his father, the applicant made a request for compassionate appointment. The same was rejected on 16.06.2008 stating that there being limited number of vacancies, his request could not be considered. Aggrieved over the same, the OA has been filed.

4. The contentions of the applicant are that they are living in indigent circumstances. As per Office Memo of DOPT dt. 16.01.2013, there is no time limit for considering the applications received for compassionate appointment. The applicant's family is living in indigent circumstances and therefore, in the absence of a breadwinner, it is the applicant who has to take care of the family and hence, prays for compassionate appointment to be given to him.

5. The respondents in their reply statement inform that the request of the applicant was placed before the Compassionate Appointment Committee (CAC) and was rejected on the basis of inter se merit keeping the limited number of vacancies to the extent of 5% of DR vacancies available. The respondents claim that those who got higher merits than the applicant were also not considered in view of the limited number of vacancies. The applicant was accordingly informed by a speaking order dt. 16.06.2008. The applicant made a representation on 22.09.2016 requesting for reconsideration of his case for compassionate appointment and the same was considered and was found not fit. Accordingly, the impugned order dt. 21.12.2016 has been issued. The respondents cited the observations of the Hon'ble Supreme Court in Himachal Road Transport Corporation Vs. Dinesh Kumar (JT 1996 (5) SC 319) decided

on 07.05.1996 and Hindustan Aeronautics Limited Vs. Smt. A. Radhika Thirumalai (JT 1996 (9) SC 197) decided on 9.10.1996.

6. Heard both sides and perused the material papers placed on record.

7 (I) The request of the applicant was duly considered by the respondents by placing it before the compassionate appointment committee. Based on the relative merit, the applicant could not make it. Besides, another limitation for the respondents was that the number of vacancies have been restricted by the respondents organization to 5% of the direct recruitment vacancies. Further, as per DOPT OM dt. 26.07.2012, 'while considering delayed requests, it has to be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the govt servant in order to relieve it from economic distress. Therefore, examination of such cases call for a great deal of circumspection.' Nevertheless, as claimed by the applicant, such condition has been withdrawn vide DOPT OM dt. 16.01.2013. However, the Hon'ble Supreme Court in a catena of judgments has observed that the whole object of compassionate appointment is to enable a family of the deceased to tide over the sudden crisis and relieve the family of the deceased from financial destitution and to help it get over the emergency. Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future. The appointment can be made only if a vacancy is available for this purpose. The respondents

have also quoted a circular dt. 30.04.2015 issued by the MOD wherein it was clearly stated that the cases which have been closed for not being found suitable under the criteria for compassionate appointment need not be opened irrespective of the waiver of time limit. The impugned order also clearly states that the merit points earned by the applicant are far below the threshold level in order to be considered. It is also made clear that the rejection was based on inter se merit and number of vacancies.

(II) The respondents have also produced the record indicating the points secured by each of the candidates selected from 2008 to 2018. The applicant got 24 merit points, whereas the last selected candidate in the year 2007-08 got 60 points. In all the years from 2008 to 2018, as per the records produced by the respondents vide No. ASL/20/2019/2615/03, dated 25.01.2019, no candidate with marks of 24 was selected. Therefore, the action of the respondents is as per rules and it is not only transparent, but very objective. Hence, it is obvious that the applicant's case could not be considered as per rule and the observations of the Hon'ble Supreme Court in catena of judgments. Hence, the OA being devoid of merit, merits dismissal and is accordingly dismissed. There shall be no order as to costs.

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

Dated, the 05th day of July, 2019

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