

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 620/2003

This the 26th day of September, 2003

~~~  
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Smt.Usha Rani, W/o Late Sri Bhagwan,  
R/o V.P.O.Puth Kurd, New Delhi.

... Applicant.

(By Advocate: Sh. M.K.Bhardwaj)

Versus

1. Secretary,  
Ministry of Environment,  
New Delhi.
2. Union of India though  
Director General Meteorology,  
Mausam Bhawan, Lodhi Road,  
New Delhi.

... Respondents.

(By Advocate: Sh. B.K.Berera)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA assailing an order dated 30.1.2003 vide which the claim of the applicant for compassionate appointment has been rejected without considering the fact that she was falling in the criteria laid down by the respondents for compassionate appointment.

2. Facts in brief are that the husband of the applicant had expired on 18.1.99 while he was working with the respondents and he has left behind applicant, one daughter and two younger brothers. Applicant further submitted that the request of the applicant for appointment on compassionate grounds had been rejected only on the ground that while the case of the applicant was pending, considering the DOPT OM dated 3.12.99 and 22.6.2001, the applicant was not covered under the said memo, so her case could not be considered.



(P)

3. I have heard the learned counsel for the parties and gone through the record.

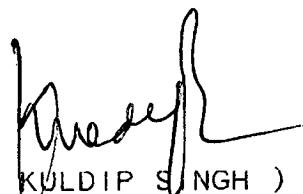
4. Counsel for the applicant pointed out that as per para 4.7 of the counter affidavit, the respondents admitted that a letter dated 19.7.99 was issued to the applicant remitting her for considering her request for compassionate appointment subject to availability of vacancy under 5% quota of compassionate appointment. But in the meanwhile DOPT had issued the OM dated 3.12.99 and 22.6.2001 which provided that it has been decided that in future the Committee prescribed for considering the request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year that too within the ceiling of 5% out of the direct recruitment quota. Since this limit of one year was placed vide OM dated 3.12.99 and 22.6.2001 so the case of the applicant could not be considered.

5. The perusal of the reply filed by the respondents shows that though the respondents had earlier assured the applicant for considering her request subject to availability of vacant post of LDC but it appears that when the OM dated 3.12.99 and 22.6.2001 were issued by the DOPT, respondents did not consider the case of the applicant on merits at all and on the basis of the said OMs rejected the case of the applicant.

6. In this connection, I may point out that the applicant had made her application for appointment on compassionate grounds much before the issue of the OMs by the DOPT by which the

limit of one year was fixed. So the applicant deserves that her case should be considered under the then existing rules and not by the instructions which have been issued subsequently. Because those instructions cannot be applied with retrospective effect. Moreover, it has also been pointed out that even these instructions have been amended by a further OM issued on 5.5.2003 when the period of one year has been relaxed to the period of 3 years on fulfilling certain conditions. Merely by coming into force of these instructions of 3.12.99 and 22.6.2001 the case of the applicant should not have been rejected because the DOPT itself is not satisfied about the putting of restriction of one year that is why they have issued another OM modifying these OMs.

7. In these circumstances, OA deserves to be allowed to the extent that respondents are directed to consider the case of the applicant on merits under the instructions applicable in case of applicant taking into consideration the date of application made by the applicant and the date of death of the predecessor in interest of the applicant. OA is accordingly disposed of and this should be done within a period of 4 months.

  
( KULDIP SINGH )  
Member (J)

'sd'