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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2590/2003

New Delhi, this the 8th day of September, 2004

Hon'ble Shri S.K. Naik, Member(A)

Mrs. Urmila Sunil Kumar  
W/o late Shri Sunil Kumar  
B-368, Sector 19, NOIDA, Dt. Gautam Budh Nagar .. Applicant

(Mrs. Prashanti Prasad, Advocate)

versus

1. Director General  
Council of Scientific & Industrial Research  
Aanusandhan Bhavan, Rafi Marg, New Delhi  
2. Central Road Research Institute  
Delhi Mathura Road, PO CRRI, New Delhi .. Respondents

(Shri Manoj Chatterjee with Ms. K. Iyer, Advocates)

ORDER

The husband of the applicant Shri Sunil Kumar, who was working as Helper with the respondents died in harness on 1.12.2002. The applicant Mrs. Urmila Devi, widow of the deceased, applied for appointment with the respondent-institute on compassionate ground on 4.7.2003. Respondents however regretted her request stating that there was no vacancy in their organization against the quota meant for compassionate appointment vide their letter dated 30.7.2003. Aggrieved by this, this application has been filed, seeking a direction to the respondents to grant her compassionate appointment against a suitable Group D post.

2. Counsel for the applicant has contended that the husband of the applicant passed way while in service of the respondent-institute during the prime of his life leaving behind his aged mother and a minor son, besides the applicant. Since there is no other earning member in the family, her case for appointment on compassionate ground ought to have been considered and granted by the respondents, which they have not done, despite repeated requests. She contends that even though the DoPT instructions clearly state that the objective behind the scheme for appointment is to relieve the family of the government servant concerned from financial destitution and to help it get over the emergency and therefore such cases should be decided expeditiously and in any case within one year, but the respondents have not considered the case and offered her any appointment until now. On the contrary, they have rejected her case on the plea that no vacancy is available. Learned counsel contends that there are a number of institutes under Respondent No.1 and the case of

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the applicant has been rejected without considering the vacancies that may be available in other institutes.

3. Needless to state, respondents have contested the application. In so far as the contention of the learned counsel for the applicant that her case has not been duly considered, counsel for the respondents states that the same is not true. Her case indeed has been considered by the Committee constituted for the purpose along with the requests of other similarly placed persons, though there are no vacancies available against 5% quota reserved for compassionate appointment in a particular year from out of direct recruitment to be made. In so far as the contention that her case should have been considered by taking into the account the vacancies available in other institutes under Respondent No.1 is concerned, the counsel submits that each unit of the organization under CSIR is an independent entity and there is no provision for providing compassionate appointment to the legal heir of the deceased employee in any of their laboratory or institute. The counsel further contends that even DoPT instruction dated 20.6.2001 has done away with the earlier provision of circulating the requests for compassionate appointment in other department/institute on the ground that it only gives a false hope to the applicants as grant of such appointment by other Ministry/department cannot be guaranteed. Additionally, in their reply respondents have referred to the retiral benefits of the deceased received by the applicant and have stated that her case also was considered by the Committee, which has placed her name at Sl.No.2 in its recommendations but her case could be considered only if there are vacancies against 5% quota meant for compassionate appointment. The counsel contends that in the absence of any vacancy, no further action could be taken in the matter. Contending further, he has clarified that it is not only the applicant but even those who have been found to be more deserving and placed above the applicant on merit for compassionate appointment have also been denied the same for want of vacancies. The counsel therefore contends that there is no merit in the application which should be dismissed.

4. I have considered the arguments advanced by the parties. For proper adjudication of the matter, I had called for an additional affidavit to be filed by the respondents giving the details of vacancies and also the proceedings of the meeting of the Compassionate Appointment Committee and I have perused the same. It has been clarified by the respondents that in the category of Group I(Technical) which is a Group D post they have 61 employees in position against the sanctioned strength of 45, whereas in the case of Group D (non-technical) there are 12 employees in position against the sanctioned strength of 19, thus leaving only 7 vacancies. Even if all the 7 posts are taken to be falling under direct recruitment quota, 5% thereof will come to nothing and therefore it has rightly been contended that there are no vacancies which could be filled up on the basis of compassionate appointment.

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Similar is the case with regard to the vacancy position in Group C (technical and non-technical). Thus I find that no vacant post is available for being filled up under the category of compassionate appointment. The Supreme Court in **Hindustan Aeronautics Ltd.V.Smt. A.Radhika Thirumalai 1997(1) SCSLJ 105** has held that compassionate appointment can be made only if vacancy is available. Under the circumstances, respondents cannot be directed by the Tribunal to appoint the applicant.

5. In the result, I find no merit in the present OA and the same is accordingly dismissed. No costs.

  
(S.K. Naik)  
Member(A)

/gtv/