

 CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 164 OF 2003

New Delhi, this the 31st day of October, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Smt. Arti Rao,
W/o Late Sh. Radhey Shyam,
Peon,
Office of the Chief Engineer (Elect)-I,
CPWD., Vidhut Bhawan,
Shanker Market,
Connaught Place,
New Delhi.

R/O
F-206, Sewa Nagar,
New Delhi-3

.....Applicant
(By Advocate : Shri G.D.Bhandari)

Versus

Union of India, through
1. The Secretary,
Ministry of Urban Development & P.A.,
Govt. of India,
Nirman Bhawan,
New Delhi.

2. The Chief Engineer (Elect)-I,
CPWD., Vidhut Bhawan,
Connaught Place,
New Delhi-1

3. The Executive Engineer (P & A),
Delhi Central Electrical Circle No.6,
CPWD., Vidhut Bhawan,
New Delhi

.....Respondents
(By Advocate : Mrs. Harvinder Oberoi)

ORDER (ORAL)

This application has been filed by Smt. Arti Rao, widow of Shri Radhey Shyam, who was an employee of respondents and died in harness on 15.7.2001. The learned counsel of the applicant pointed out that on the death of sole bread earner of the family, the applicant requested the respondents vide letter dated 30.7.2001 (Annexure-A6) seeking compassionate appointment in terms of Scheme for Compassionate Appointment. This letter contained the details of the

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family which included two sons of 13 years and 8 years and two daughters of 11 years and 3 years. The widow further stated that there was no source of income. Therefore, she asked for any employment suitable for her to meet the financial distress which occurred because of the death of Shri Radhey Shyam. The learned counsel further invited attention to letter dated 10.9.2001 (Annexure-A8) forwarding the application of the applicant wherein it has been observed that consequent to the death of applicant's husband Shri Radhey Shyam, there being no source of income, the condition of the family of the deceased has become quite indigent and, therefore, the applicant's case for compassionate appointment was strongly recommended. However, her case for compassionate appointment has been rejected and she has been informed by letter dated 1.10.2002 (Annexure-A3) that "it is not possible to make any appointment within the quota of 5% in one year period on the post of a Peon. PWD (E) has informed that it is not possible to give appointment on the post of Beldar/Khallaesi". Aggrieved by this order, this OA has been filed. The learned counsel stated that the rejection of the applicant's case is not in conformity with the provisions contained in the Scheme for Compassionate Appointment as the time limit for compassionate appointment within the prescribed ceiling of 5% of direct recruitment quota has been removed as per clarification vide Memo dated 5.5.2003 of Govt. of India, Dept. of Per. & Trg. published in Swamy's News in July, 2003. This clarification dated 5.5.2003 states that the question of prescribing a time-limit for making appointment on compassionate

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grounds has been examined in the light of representations received. Therefore, it has been decided that if compassionate appointment to genuine and deserving cases, as per the guidelines contained in the above OM is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for compassionate appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota". Such extension would be for 2 or 3 years. The learned counsel of the applicant further pointed out that there is no mention in the impugned order as to how many vacancies are there and why the applicant's name was not found within 5% of direct recruitment quota.

2. The learned counsel of the respondents stated that the modified scheme as per OM dated 22.6.2001 (Annexure-R-7) specifically pointed out that the recommendation by the Committee should be limited to the availability of the vacancy. According to the learned counsel of the respondents, this OM is fully applicable to this OA and the same was rightly rejected by the respondents by their order dated 1.10.2002. Regarding amendment in the time-limit for compassionate appointment as per OM dated 5.5.2003, it was pointed out that this will not apply to the present case as the same is applicable to the cases where the consideration is made after issue of the OM dated 5.5.2003. The learned counsel also referred to

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the records of the respondents to say that the Committee has decided that the applicant was not given compassionate appointment within a year. Therefore, this Tribunal may not interfere with the decision of the respondents.

3. The learned counsel of the respondents also pointed out that the applicant has claimed plural reliefs. Therefore, this OA deserves to be rejected on this preliminary ground. The learned counsel of the applicant stated that the other reliefs were claimed only with the permission of the court and if no such permission is granted, he will confine his prayer limited to the compassionate appointment only. In view of this statement of the learned counsel of the applicant the claims regarding the other reliefs are not considered and the only prayer relating to the relief of compassionate appointment is considered.

4. After considering the arguments of the learned counsel of the applicant and after perusing the materials available on record, it is noticed that the respondents have not properly appreciated the spirit behind the scheme of the compassionate appointment. The object of the scheme is to provide financial assistance to the surviving members of the deceased family on the death of sole breadwinner. Accordingly it is provided that such an appointment should be made as early as possible. It was in this background that the OM dated 22.6.2001 was issued in which it was desired that the waiting list should not be prepared to raise a false hope. Reverting to the facts of this case, the respondents have not pointed out that how

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many vacancies in the direct recruit quota existed after the death of applicant's husband on 16.7.2001. It is also not clearly stated that whether anybody was given appointment on compassionate ground within 5% quota of direct recruitment vacancies. The Screening Committee vide order dated 19.8.2002 has stated that on the basis of information available it was not possible to offer appointment on compassionate ground. Therefore, the representation of the applicant was rejected. There is no doubt that only in penurious cases the applicants are offered compassionate appointment. The respondents have not clearly stated that there is no direct recruitment vacancy. Therefore, the case of the applicant has to be considered in the light of OM Dated 5.5.2003. The OM dated 5.5.2003 is only in respect of relaxation in the existing instructions and provides that if the case of the applicant is not considered within a period of one year, the same has to be considered within 3 years subject to the availability of vacancies within 5% direct recruitment quota.

5. In view of what has been stated in the preceding paragraphs, this OA is allowed and the respondents are directed to consider again the case of the applicant for compassionate appointment and will pass a reasoned and speaking order under intimation to the applicant within three months from the date of receipt of a copy of this order. No order as to costs.

R.K. Upadhyaya

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER