
(2018) 11 CAT CK 0060

Central Administrative Tribunal Principal Bench, New Delhi

Case No: Original Application No. 587 Of 2017

Sanjay Khurana

APPELLANT

Vs

Central Ordnance
Depot

RESPONDENT

Date of Decision: Nov. 29, 2018

Hon'ble Judges: Praveen Mahajan, Member (A)

Bench: Single Bench

Advocate: Tanya Joshi, Sidharth Joshi, Ankit Jalal, Kiran Ahlawat

Final Decision: Dismissed

Judgement

''''''

1. Through the medium of this O.A., the applicant has sought the following relief:-''''''''

â€œ(i) Set aside the order dated 31.08.2015 passed by Brig. Commandment, Central Ordnance Depot, Delhi Cantt-10, thereby to appoint the''''''''

applicant herein on the post applied for, on compassionate grounds.''''''''

(ii) Award cost and consequential relief in favor of the Applicant.â€■''''''''

2. Briefly stated, the facts of the current O.A. are that the father of the applicant (Late Sh. Gulshan Rai Khurana) was appointed with the''''''''

respondents on 27.05.1978. Father of the applicant died on 14.07.2008 while working as Store Superintendent, leaving behind his widow, two sons''''''''

(one of which applicant herein), one daughter and mother. With the NOC of other dependents of the family, the applicant submitted an application for''''''''

appointment on compassionate grounds in relaxation to normal rules. The applicant has stated that after two years, the respondents informed him that",,,,,,

his case for compassionate appointment in relaxation to normal rules has been rejected. After enquiry, the applicant was further informed that the",,,,,,

certificate of movable/immovable property and income certificate was not in proper format. Thereafter, the applicant submitted all the necessary",,,,,,

documents for further action. Mother of the applicant (Smt. Neelam Khurana) vide her letter dated 03.06.2014 (along with all the documents) again,,,,,,

requested the respondents for information regarding the status of appointment on compassionate grounds of the applicant. Vide order dated,,,,,,

19.06.2014, the applicant was informed that:-" ,,,,,,

It is intimated that all the documents were forwarded to IHQ of MoD (Army) through HQ Western Comd (Ord) by this depot regarding,,,,,,

appointment in relaxation to normal rules in respect of Sh. Sanjay Khurana S/o Late Sh. Gulshan Rai Khurana. The documents were included in the,,,,,,

annual board at IHQ of MoD (Army) but not recommended for appointment due to low merit and more deserving cases.â€■,,,,,,

The applicant sent a legal notice to the respondents to provide a copy of the speaking order. Aggrieved, the applicant filed the OA- 1212/2015 before",,,,,,

the Principal Bench of Central Administrative Tribunal, which was disposed of on 31.03.2015 with the following directions:-" ,,,,,,

2. Issue notice to the respondent. Mr. Hanu Bhasker, learned Senior Central Government Standing Counsel, accepted notice. It is noticed that",,,,,,

vide communication No. 3560/Relax/SK/Estt.(NI) dated 19.6.2014 the Central Ordinance Depot informed the applicant that his case was not,,,,,,

recommended for appointment due to low merit and there being more deserving cases. In the communication, it has also been mentioned that the",,,,,,

speaking order would be issued to him on receipt of required information from the Headquarters Western Command (Ord).,,,,,,

3. Since the respondent has not yet communicated the speaking order to the applicant, the Original Application is disposed of with direction to the",,,,,,

respondent to communicate the speaking order to the applicant within two weeks from the date of receipt of a copy of this Order. It goes without saying,

saying that the applicant would be at liberty to file fresh Original Application after receipt of a copy of the speaking order. No costs.

Since the respondents were not complying with the aforesaid order of the Tribunal, the applicant filed a CP-492/2015. During the pendency of the

Contempt Petition, the respondents issued the speaking order on 31.08.2015, hence, the Contempt Petition was closed on 11.09.2015.

3. The applicant states that the order dated 31.08.2015 is illegal and unlawful and not based on any cogent evidence. Hence, the applicant has

impugned the same through the medium of this OA.

4. In reply, the respondents submit that the case of the applicant for appointment on compassionate grounds was considered thrice for Group-C post

by Annual Board of Officers for the years 2009-2010, 2010-2011 and 2011-2012 under the ADRP Scheme. However, name of the applicant could not

be recommended due to low merit and limited number of vacancies available. The selection of candidates under compassionate appointment is

governed by 100 points scale system in pursuance of MoD ID No. 18(a)/824-99-D (Lab) dated 09.03.2001 and final selection is made on the basis of

various parameters like number of children, amount of terminal benefits received, amount of family pension, liability of un-married daughter, minor

children and movable, immovable properties of the deceased etc. Respondents further contend that appointment on compassionate ground is not a

matter of right and does not bestow any absolute right to next of kin of the deceased to claim the job if they otherwise do not meet the requirements of

the rules. In compliance of the Tribunal's directions contained in OA-1212/2015 and CP-492/2015, the case of the applicant has been processed and

order dated 31.08.2015 issued.

5. During the course of hearing, learned counsel for the applicant Ms. Tanya Joshi reiterated the facts already raised in the O.A. She argued that the

applicant, who is the sole bread earner of the family had to look after himself and dependents of his deceased father after his death. She argued that" ,,,,,,

the respondents have rejected his case without giving any cogent reasons. She also emphasized that if the documents of the applicant were only ,,,,,,

completed in the year 2011, then how could his candidature be considered for the vacancies which arose in 2009-2010, 2010-2011 and 2011-2012? In" ,,,,,,

support, she drew my attention to the Eligibility Certificate issued by the respondents on 29.03.2011, stating that:-" ,,,,,,

â€œCertified that Sh/Smt/Km Sanjay Khurana wife of/son of/daughter of Late Sh/Smt gulshan Raj Khurana who has applied for employment for ,,,,,,

group â€œCâ€/group â€œDâ€ post fulfills the conditions laid down in DOP&T OM No.14014/C/94-Estt(D) dt 09 Oct 1998 and is eligible for ,,,,,,

employment in relaxation to normal rules.â€■ ,,,,,,

Ms. Joshi contended that the respondents have not followed the procedure laid down in paragraph-8 of the Compassionate Appointment Instructions, " ,,,,,,

which stipulates that:- ,,,,,,

â€œNumber of Chances ,,,,,,

(a) Case of each applicant for compassionate appointment will be considered in three consecutive Annual Board of Officers. After convening of ,,,,,,

Annual Board of Army HQ, photocopy of Board Proceedings will be fwd to concerned Command HQs/CODs which will be communicated to each" ,,,,,,

applicant about their merit status in Annual Board on each consideration. In case his name has not been recommended by the third Annual Board, a" ,,,,,,

Detailed Speaking Order will be issued to the applicant on the proforma prescribed vide this HQ letter of even number dated 28 Sep 2004.â€■ ,,,,,,

(b) A separate record of all such applicants who have been considered three times and finally rejected will be maintained by OS (Pers), Army HQ for" ,,,,,,

answering any queries at later stage. Similar record may also be maintained by respective Command HQs and Units. ,,,,,,

(c) As compassionate appointment is to be provided as a one time measure, in case of death of that dependent whose appointment was made under" ,,,,,,

compassionate scheme, the claim for compassionate appointment by other family members of the first deceased Govt Servant will not be considered." ,,,,,,

However, the dependents of the deceased Govt servant appointed on compassionate appointment can have claim for further compassionate" ,,,,,,

appointment.,,,,,,

Year,"Total no of

Vacancies

projected to

MoD/AGâ€■s

Branch","Considered

for Group â€œCâ€■

Carrying GP

Rs.1900/-","Considered

for Group â€œCâ€■

carrying GP

Rs.1800/-","No. of

Applicant

Selected in

GP Rs.1900/-","No of

Applicant

Selected in

GP Rs.1800/-","Cut off points for

appointment on 100

points Scale System",

(a),(b),Â©,(d),(e),(f),Rs.1900/-,Rs.1800/-

2009-10,326,84,242,31,41,61,74

2010-11,400,117,283,17,30,70,76

2011-12,529,171,358,15,47,70,72