
(2019) 02 CAT CK 0130

In the Central Administrative Tribunal

Case No : Original Application No. 1035 Of 2017

Smt. Rekha Gupta

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 14-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0130

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Advocate : V.P.S.Tyagi, Manjeet Singh Reen

Final Decision : Dismissed

Judgement

1. The applicant no.1 herein is the wife of one Sh. Vinod Kumar Gupta, who was working as Electrician in Army Base Workshop, Meerut Cantt. He met with a road accident on 07.09.2011. Subsequently, he made an application for voluntary retirement on medical grounds. However, this request was withdrawn subsequently and he gave such a request again on 29.01.2014. The Medical Board was constituted to consider the medical condition of said Sh. Vinod Kumar Gupta. This Medical Board gave recommendations on 26.02.2014 and recommended that he is medically incapacitated. Thereafter, the request for voluntary retirement on medical grounds was accepted w.e.f. 31.05.2014. By this time, Sh. Vinod Kumar Gupta had crossed the age of 55 years and 9 months.

2. The said Sh. Vinod Kumar Gupta made an application dated 21.05.2014, for compassionate ground appointment in respect of his son Sh. Hitesh Gupta, who is applicant no.2 in the instant OA. This request was rejected by the respondents on 28.05.2014. Feeling aggrieved, the applicant approached the Tribunal in OA No.182/2015 wherein orders were passed on 22.09.2016. The respondents were directed to consider the case of the applicant and pass a reasoned and speaking order.

3. Thereafter, the second representation dated 21.11.2016 was made by the

applicant. This was considered by the respondents and a detailed order has been passed on 21.01.2017, which brings out as under:

"5. AND WHEREAS, meanwhile Shri Vinod Kumar Gupta had submitted an application dt 21 May 2014 regarding compassionate appointment for his son Mr. Hitesh Gupta which was rejected vide 510 Army Base Wksp letter No.20302/2579/-- dt 28 May 2014 stating that the application for compassionate appointment can only be considered if retirement on medical grounds was taken prior to the age of 55 years as per DoP&T letter No.14014/02/2012-Estt.(D) dt 30 May 2013 (copy at Annexure-A) but in the instant case the said Shri Vinod Kumar Gupta was 55 years and 9 months old (Approx) on the date (31 May 2014) of his retirement on medical grounds.

Xxx xxx xxx

7. AND WHEREAS, Based on the order dt 22 Sep 2016 the respondent No 3 i.e. Commandant 510 Army Base Wksp, Meerut Cantt considered the representation dt 21 Nov 2016 and after due deliberation it is intimated that as per DoP&T letter No. 14014/02/2012-Estt.(D) dt 30 May 2013 (copy at Annexure-A) the dependents of Govt servant can only be eligible for compassionate appointment if the Govt servant has retired on medical ground before attaining the age of 55 years whereas Ex T.No 2579 Elect (MCM) Shri Vinod Kumar Gupta was 55 Years and 9 months old (Approx) on the date (31 May 2014) of his retirement on medical grounds. Hence, in accordance with DoP&T letter No 14014/02/2012-Estt.(D) dt 30 May 2013 (copy at Annexure-A) the representation dt 21 Nov 2016 of Shri Hitesh Gupta regarding compassionate appointment cannot be processed."

4. The applicant is feeling aggrieved by this rejection and has filed the instant OA seeking relief in the form of directions to the respondents to consider the case of the applicant again taking into account the income parameters etc. as per 6th Central Pay Commission.

5. The applicant has relied upon directions by DOP&T dated 26.07.2012 wherein the earlier time limit of 3 years for consideration of compassionate appointment request, issued vide earlier OM dated 05.05.2003, was done away with.

6. The respondents opposed the OA on the plea that compassionate ground appointment is not a vested right. It is a consideration to be extended by the respondents. This consideration has been extended twice, firstly by the respondents on their own and thereafter in compliance to directions by the Tribunal. However, the request could not be agreed to.

7. The respondents also brought out that compassionate ground appointment can be considered only against 5% of the annual direct recruitment quota and as such, the total number of available posts for such appointment are quite less and the respondents have to take into account all the cases and thereafter select the few to whom such an appointment can be offered. It is with this view that the

extant rules are required to be followed in all cases including the instant case.

The ex employee had already crossed the age limit of 55 years, which was prescribed for such a request coming from those who retired on medical incapacitation even on 29.01.2014 when he requested for voluntary retirement on health grounds. It was in keeping with these extant instructions that even after consideration, the applicants' request could not be agreed to.

8. Matter has been heard at length. Sh. V.P.S.Tyagi, learned counsel represented the applicants and Sh. Manjeet Singh Reen, learned counsel represented the respondents.

9. Compassionate ground appointment is not a vested right. It is a benevolent consideration extended by the respondents to the family to take care of their immediate needs and to avoid the penurious conditions being faced by a family where retirement had taken place due to medical incapacitation. This consideration was extended but could not be accepted in view of ex-employee crossing the age bar for such consideration. This cannot be faulted. In any case, provision of compassionate ground appointment cannot be a scheme to take care of unemployment.

10. In the instant case, the applicant no.1 is the wife of the said employee, who is in receipt of pension. Applicant no.2 herein, for whom compassionate ground appointment request is being pleaded, has already crossed 25 years of age. The said Sh. Vinod Kumar Gupta had taken voluntary retirement on 31.05.2014, an event which took place about 5 years back.

It is the Tribunal's view that the requisite consideration has already been extended by the respondents and the request could not be accepted. Accordingly, there is nothing further that subsists in the instant OA.

11. Accordingly, OA is dismissed being devoid of merit. There shall be no order as to costs.