

Central Administrative Tribunal  
Principal Bench

O.A.No.252/2002

(11)

**Hon'ble Shri Shanker Raju, Member(J)**

New Delhi, this the 11th day of December, 2002

Shri Ram Niwas  
s/o Late Shri Ram Kanwar  
r/o Village Ghoshgarh  
P.O. Jamalpur Distt.  
Gurgaon, Haryana.

... Applicant

(By Advocate: None)

Vs.

1. National Sample Survey Organisation  
Through its Director  
Field Operation Division, 3rd Floor  
Pushpa Bhawan, Madangir Road  
New Delhi.

2. The Anubhag Adhikari  
Prime Minister's Office  
South Block  
New Delhi.

3. Union of India  
through Secretary  
Ministry of Planning  
New Delhi.

.. Respondents

(By Advocate: Mrs. Meenu Mainee)

**O R D E R (Oral)**

**By Shri Shanker Raju, M(J):**

None for the applicant even on second call.  
This case has been listed for Possible Final Hearing.  
In the circumstances, the OA is disposed of in terms  
of Rule 15 of the CAT (Procedure) Rules, 1987.

2. Applicant, in this OA, seeks compassionate  
appointment and in this regard challenged the impugned  
order dated 20.7.1993 as well as of 15.1.1999 through  
which the request for compassionate appointment has  
been rejected upto the level of State Minister for  
Planning and Programme Implementation. According to

the pleadings in OA, the family is indigent having six adult members and the amount which has been accorded as retiral benefits is not sufficient.

3. Applicant also alleges discrimination on the ground that similarly circumstance one Sh. P.N.Mehra, who was working as Assistant Superintendent, his son has been accorded compassionate appointment the same treatment has been denied to the applicant, which is violative of Articles 14 and 16 of the Constitution of India. It is also stated that despite reminders the request of applicant has not been acceded to.

4. On the other hand, learned counsel for respondents stated that it is now crystalised from various pronouncement of the Apex Court that mere death of employee in harness would not confer a right upon a Government servant to appoint him/her on compassionate basis and it is only a precarious conditions of the deceased which would be the criteria for according compassionate appointment read with other conditions as per the OM of 1998. In this conspectus it is stated that the request of the applicant has been considered and recommended in the year 1993 and having not approached this Court, OA is not maintainable in view of <sup>u</sup>Section 21 of the Administrative Tribunals Act, 1985. Moreover, it is stated that as the right is of only a consideration, the case of the applicant has been considered up to the level of State Minister *ibid* and vide communication dated 15.1.1999 it has been informed to the applicant that the request already considered in

1993 as well as in 1996, fresh consideration<sup>v</sup> of the same has not been agreed to and it is also informed that in future no correspondence should be made in this regard. Moreover, it is stated that this OA has been filed beyond one year from the date of the order passed by the respondents without any application for condonation of delay.

5. I have carefully considered the pleadings available on records and also contentions put forth by the learned counsel for respondents.

6. In so far as the limitation is concerned, having received an order rejecting the request of the applicant for compassionate appointment, applicant should have approached this Court within one year as stipulated under Section 21 of the Administrative Tribunals Act, 1985. By the communication dated 15.1.1999 applicant was informed of her rejection by the State Minister but yet the OA has not been preferred within the stipulated period of limitation. In this view of the matter, the OA is barred by limitation and in absence of any application for condonation of delay, this court cannot suo moto condone the delay.

7. However, in the interest of justice, I also adjudicate the case on merits. As compassionate appointment cannot be claimed as a matter of right and as it is restricted to only 5% vacancies meant for such appointment in Group 'C' and 'D' in the light of the Government of India's instructions laid down in the OM issued in 1998, and the case of the applicant

was considered on several occasions up to the level of State Minister *ibid* and as the same was not fit as per the guide-lines, and having regard to the limited number of vacancies, the same has been rejected. From the perusal of the retiral benefits and there is a own house ~~of~~<sup>by</sup> the applicant, including agricultural land and the amount which is getting, in my considered view, the action of the respondents cannot be found fault and is in accordance with the decision of the *Umesh Kumar Nagpal vs. State of Haryana*, JT 1994(3) SC 525.

8. In view of the above discussion, the OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju  
(Shanker Raju)  
Member(J)

/rao/