

**Central Administrative Tribunal
Madras Bench**

OA/310/01862/2014

Dated Tuesday the 16th day of February Two Thousand Sixteen

P R E S E N T
Hon'ble Mr.R.Ramanujam, Member(A)

Mrs.K.Vijayalakshmi
W/o late V.Krishnan,
Type 3, 43/2, HBF Estate,
Avadi, Chennai 600 054. .. Applicant

By Advocate M/s.T.G.Balachandran

Vs.

1. Principal Controller of Accounts(FYS),
10A, S.K.Bose Road,
Kolkata 700 001.
2. CFA (FYS),
Accounts Office, HVF,
Avadi, Chennai 600 054. .. Respondents

By Advocate Mr.M.Kishore Kumar

ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The case of the applicant is that her husband who was working as a Clerk under the respondents died on 19.3.2009 in harness while in service, leaving behind him his wife and two sons. The elder son is already employed in a construction company. The representation of the applicant dated 30.11.2012 seeking appointment on compassionate grounds to her younger son Mr.K.V.Arunkumar was rejected by Order dated 17.7.2013 (Annexure A2) and the subsequent review petition dated 08.11.2013 was also rejected by order dated 23.12.2013 (Annexure A5). Legal notice dated 3.3.2014 sent was also negatived. Hence this OA seeking to quash the rejection letter dated 17.7.2013 and to direct the respondents to consider the case of the applicant's son K.V.Arunkumar for compassionate appointment.

2. The respondents contest the claim stating that the case of the applicant has been considered by the competent authority as per DoP&T Orders and recommendation of Board of Officers taking into account all factors including present financial conditions and liabilities of the deceased Government employee. The family of the deceased was found neither in penurious condition nor without any means for livelihood.

3. When the matter is taken up for hearing today, learned counsel for the applicant points out that the applicant is discharging the liabilities left over by the deceased employee on account of which she is in misery and requires

compassionate appointment in favour of her second son. However, the respondents without considering her circumstances have summarily rejected her case with a bland statement that the Board of Officers constituted for the purpose had opined that the request of the applicant was not deserving and the case lacked merits for appointment on compassionate ground keeping in view the liabilities, size of the family, movable/immovable properties, left over services of the deceased employee etc. The representation made by the applicant thereon has also been rejected on the ground that there existed no provision in the extant Government orders for reopening the case for appointment on compassionate grounds and without reference to the liabilities being discharged by the applicant. This according to the counsel for the applicant is factually incorrect as compassionate appointment could always be reopened when relevant facts are brought on record and considering that there is no time limit for processing compassionate appointment.

4. Learned counsel for the respondent however, drew attention to the fact that the applicant had not informed the respondents of any liabilities when the Welfare Officer collected the relevant particulars from the applicant. The applicant has brought certain new facts at the time of review application which could not be considered in view of the fact that the respondents had already issued a 'speaking order' rejecting her case on the basis of the recommendations of the Board of Officers constituted for this purpose.

5. I have carefully considered the facts and circumstances of the case and

perused the pleadings and other material submitted by the parties. It is not in dispute that the applicant's case was forwarded by Joint CFA(FYS) to the 2nd respondent by letter dated 18.11.2013 (Annexure A4) drawing their attention to the submission made by the applicant that she had liabilities of Rs.10,25,000 as against total assets of Rs.14,38,757/- (inclusive of pensionary benefits and immovable property) as shown in the welfare report. Certain other relevant documents were also annexed to the said letter.

6. The order dated 17.7.2013 does not seem to elaborate on how exactly the different factors such as liabilities, size of the family, movable/immovable properties, left over services of the deceased employee etc. were assessed. In the absence of relevant details in the Order of such assessment as also information regarding the merit points of the last person appointed on compassionate grounds under the 5% quota, it could not be regarded as a speaking order. It is also not correct to say that the decision once taken cannot be reviewed as the instructions governing compassionate appointment clearly state that there is no time limit to consider such cases. It is also stated that if compassionate appointment could not be granted in one year, it could be taken up in the subsequent years.

7. Similar matters have been decided by this Tribunal in various OAs in the light of the fact that the scheme for compassionate appointment does not prescribe any time limit for considering the request of the applicant. Para-8 of the scheme for compassionate appointment issued along with OM dated 16.1.2013 of DOP&T states as follows:-

“Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.”

Further, in the Frequently Asked Questions (FAQs) on compassionate appointment attached therewith it is stated as follows:-

Sl.No.	Question	Answer
26	If compassionate appointment cannot be given in a year, can it be considered in the next recruitment year?	Yes. There is no time limit for compassionate appointment. A request for compassionate appointment can be carry forward to next or more years, but the total compassionate appointment made in a year should not exceed 5% limit of the direct recruitment Group C quota.

8. In the light of the aforesaid provisions the respondents are not justified in rejecting the representation of the applicant dated 08.11.2013 at Annexure A3. Therefore, the Order at Annexure A2 dated 17.7.2013 and communication at Annexure A4 dated 18.11.2013 are quashed and set aside. The respondents are directed to place all the relevant facts as submitted by the applicant before the Board of Officers for consideration of the applicant's case on merits and thereafter pass a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. The applicant shall also be heard before final orders are passed during which time she shall be at liberty to submit any further information alongwith documentary evidence for a fair and objective consideration

of her case.

9. With the above direction, the OA is disposed of. No order as to costs.