

Through Video Conferencing**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
JABALPUR**Original Application No.200/569/2016**

Jabalpur, this Thursday, the 31st day of December, 2020

HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Zarina Khan, W/o Late Shri Mazhar Khan, aged about 34 years, R/o D-21, Type 5 Qtr, BMHRC Campus, Bhopal, District Bhopal, Madhya Pradesh

-Applicant

(By Advocate – Shri Pankaj Dubey)

V e r s u s

1. Union of India through Secretary, Ministry of Health & Family Welfare, (Department of Health Research), North Block, Central Secretariat, New Delhi 110001.
2. Indian Council of Medical Research, Government of India, Through Chairman, New Delhi 110001.
3. Director Bhopal Memorial Hospital & Research Centre, (Under Department of Health Research) (Government of India), Raisen Road, Bhopal M.P. 462038.

-Respondents

(By Advocate – Shri Ashish Shroti for respondents Nos.2 & 3)

O R D E R

This Original Application was initially filed for grant of compassionate appointment as also pension and retiral dues to the applicant. However, later on the Original Application was amended limiting applicant's prayer to one relief,



i.e. grant of compassionate appointment to her, which was rejected vide order dated 11.05.2015 (Annexure A-8) by the respondents.

2. The applicant has sought for the following reliefs:

“8 Relief sought:

The applicant, therefore, prays that this Hon’ble Court may kindly be pleased-

- (i) To quash the order dated 11.05.15 and to direct the Respondents to appoint the Applicant on compassionate grounds.
- (ii) To direct the Respondents to consider the case of the Applicant.
- (iii) Cost be awarded to the applicant.”

3. Briefly, the facts of the case are that the husband of the applicant died in harness on 26.03.2014, while working with the respondent No.3, i.e. Bhopal Memorial Hospital & Research Centre (hereinafter referred to as ‘**BMHRC**’). After the death of her husband, the applicant submitted application dated 08.04.2014 (Annexure A-3) for grant of compassionate appointment to her. However, vide communication dated 11.05.2015 (Annexure A-8), the case of the applicant for grant of compassionate appointment has been rejected. The applicant submits that the respondents have mechanically rejected her case without affording any opportunity of hearing and without assigning any reason in the impugned rejection order, whereas the respondents ought to have considered her case as per the scheme of Central Government for compassionate appointment.



4. In their reply, the respondents Nos.2 & 3 have submitted that the Bhopal Memorial Trust was established in the year 1998 for providing medical treatment and rehabilitation of the gas accident victims. Thereafter, the Union of India decided to take over the Hospital and it was run through the Department of Biotechnology and Department of Atomic Energy. Later on, Government of India decided to give the management of the Hospital to Department of Health Research under the Ministry of Health & Family Welfare and, therefore, the management of the Hospital was given to respondent No.1 with effect from 19.07.2012. The respondents further submitted that the applicant made an application for grant of compassionate appointment on 08.04.2014 (Annexure A-3). Since the Recruitment Rules of the Hospital were not finalised till that time, the applicant's request could not be accepted and hence her case was rejected vide letter dated 11.05.2015 (Annexure A-8).

5. Heard learned counsel for the parties and perused the pleadings and documents annexed therewith.

6. It is undisputed that husband of the applicant died in harness on 26.03.2014 leaving behind the applicant and a minor daughter. It is the case of the respondents that at the time of death of husband of the applicant, the Recruitment Rules were not prevailing as the management of the Hospital was given to respondent No.1 w.e.f. 19.07.2012 only. Therefore, in the absence of Recruitment



Rules, the appointment on compassionate ground could not be granted to the applicant.

7. The Government of India has formulated a scheme for compassionate appointment to a dependant family member of a Government Servant dying in harness. It is an admitted fact that the administrative control and function of the BMHRC is managed and controlled by the respondent No.2, i.e. Indian Council of Medical Research, a body functioning under Union of India, Ministry of Health & Family Welfare. It is also not in dispute that at the time of death of applicant's husband on 26.03.2014, the BMHRC was managed and controlled by the respondent No.2. It is pertinent to mention that the scheme of compassionate appointment has been introduced by the Government of India for all the Central Government department. Therefore, the respondents should have considered applicant's case for compassionate appointment as per the scheme and policy formulated by the Central Government, which was in vogue at the prevalent time. Moreover, the impugned order (Annexure A-8) suffers from want of any reason and is liable to be quashed and set aside on this ground alone.

8. It has repeatedly been held in catena of judgments that failure to give reasons amounts to denial of justice. The administrative authority who is discharging quasi judicial duty is required to give reasons while rejecting any claim. Because if the reasons are given then it will be easier for the person to



challenge the order effectively before the Court of law by concentrating only on those points which did not find favour to the authority. Even in respect of administrative orders **Lord Denning M.R. in Breen vs. Amalgamated Engg. Union** (1971) 1 All ER 1148, observed “The giving of reasons is one of the fundamentals of good administration”. In **Alexander Machinery (Dudley) Ltd. vs. Crabtree** 1974 ICR 120 (NIRC) it was observed “*Failure to give reasons amounts to denial of justice*”. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The law laid down by the lordships of Honorable Supreme Court in the case of **Raj Kishore Jha vs. State of Bihar & Others**, 2003(11) CC 519 has again been reiterated in case of **Ram Phal vs. State of Haryana**, 2009(3) SCC 258, decided on 6.2.2009 stating that “*reason is the heartbeat of every conclusion. Without the same, it becomes lifeless.*” Therefore, reasons are backbone of the order. In absence of reasons, order cannot be approved by any Court of law because it does not inform the person against whom the order is passed regarding what wave in the mind of the authority while rejecting the claim.

9. In view of the aforesaid, the impugned order dated 11.05.2015 (Annexure A-8) is quashed and set aside. The respondents are directed to reconsider the case of the applicant for grant of compassionate appointment as per the applicable



policy existing on the date of demise of husband of the applicant. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. Accordingly, the Original Application is allowed. No order as to costs.



am/-

(Ramesh Singh Thakur)
Judicial Member