

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00244/2020

Order reserved on : 25.01.2021

Date of decision: 23.02.2021

**CORAM**

**HON'BLE MRS. JASMINE AHMED, MEMBER (Judicial)**

Sunil Chouhan S/o Late Kanwari Lal, aged about 31 years, H. No.11/201, Near Shishu Niketan School, Maderna Colony, Jodhpur-342007. Father of the applicant last working as MTS under respondent No.2.

**.....Applicant**

By Applicant: Mr. Sunil Chouhan, applicant, present in person through VC.

**Versus**

1. Union of India, through the Finance Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi-110001.
2. Chief Commissioner of Income Tax, Aayakar Bhawan, Paota, C-Road, Jodhpur-342010.
3. Pr. Chief Commissioner of Income Tax, NCR Building, Statute Circle, Jaipur-302005.

**.....Respondents**

## **ORDER**

### **Hon'ble Mrs. Jasmine Ahmed, Judicial Member**

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"(A) In view of the facts and grounds enumerated above, it is most respectfully prayed that the order dated 12.06.2020 Annexure-A/1, passed by the respondents, may kindly be quashed and the Original Application may be allowed directing the respondents to consider the case of the applicant for compassionate appointment on merits of the case.

(B) Any other appropriate writ, order or direction, which may be considered just and proper in the facts and circumstances of the case may be issued in favour of the applicant."

2. The brief facts of the case are that the applicant's father Shri Kanwari Lal was working as casual labour from 26.08.1986 to 30.05.1991 and was regularised in service as Chowkidar on 31.05.1991 with the respondent department. He was due for retirement on superannuation on 31.07.2024, but due to medical grounds, he submitted his application for VRS under Rules 48 and 56 of FR of CCS Pension Rules (Annexure-A/2), which was accepted by the respondent department vide order dated 16.08.2016 (Annexure-A/3).

3. After taking VRS, the father of the applicant Shri Kanwari Lal vide application dated 20.06.2018 requested the respondent department to provide necessary forms for granting compassionate appointment to one of his family members, as he had retired on medical grounds although technically it was VRS. The applicant has also submitted application on 01.08.2018 (Annexure-A/5) for granting him compassionate appointment. However, the applicant's father Shri Kanwari Lal expired on 22.10.2019. Thereafter, the respondent department vide letter dated 10/12.06.2020 has rejected the claim of the applicant, which is quoted as under:-

"Sub:- request for reconsidering, comments made in this office letter dated 25.10.2018 sent to the Pr.CCIT, Jaipur-reg.

Kindly refer to the subject cited above.

In this connection it is submitted that on re-examination of your previous letters and applications regarding compassionate appointment, it is found that Late Shri Kanwari Lal, Retd. Chowkidar applied for VRS under rules 48&56 of FR of CCS Pension Rules. You are claiming for appointment on compassionate ground which is applicable to Retirement on medical grounds, in which case employee need to apply under rule 38 of CCS Pension Rules and accordingly, invalid pension is paid to the retiree.

As your father Late Sh. Kanwari Lal, Retd. Chowkidar applied for VRS under Rules 48 and 56 of FR of CCS Pension Rules, in which there is no clause of compassionate appointment. If he was willing to get retirement on medical grounds under Rule 38, he needed to apply for invalid pension which is granted after medical examination by appropriate Medical Authority.

Therefore, I am directed to inform you that your application for compassionate ground is not valid, as Late Sh. Kanwari Lal, Retd. Chowkidar, had retired u/s 48 & 56 of the FR of CCS Pension Rules, not on medical ground as mentioned in your application dated 07.08.2018 and 07.02.2020."

Being aggrieved of the aforesaid impugned order dated 10/12.06.2020 (Annexure-A/1), the applicant has preferred the present Original Application.

4. Heard the applicant, who is present in person and perused the material available on record.

5. The applicant, herein, is seeking compassionate appointment as his father took voluntary retirement. His contention is that though his father took voluntary retirement but that was under wrong suggestion of the officials in the Department. It is also contended by the applicant in person that the respondents should have given him proper suggestion of taking retirement on his medical condition, and his father being not a very literate person, could not make out implications of different Rules by which he would have been governed for taking retirement. The applicant also argued that after taking voluntary retirement, his father made a request for grant of compassionate appointment for the applicant on 20<sup>th</sup> June, 2018. It is also contended by the applicant that he also gave a representation for grant of compassionate appointment on 1<sup>st</sup> August, 2018, and his father who took voluntary retirement, expired on 22<sup>nd</sup> October, 2019. The applicant argued that his father died due to his illness, and accordingly, his father made a request to

the competent authority for grant of compassionate appointment to his son, the applicant herein, therefore, prays that the impugned order dated 12<sup>th</sup> June, 2020 passed by the respondents should have been considered most sympathetically, and thus, he prays that the order dated 12<sup>th</sup> June, 2020 (Annex.A/1) be quashed and set aside, and the respondents be directed to consider his case for grant of compassionate appointment.

6. I have heard the contentions raised by the applicant in person herein. It is not disputed even by the applicant in person that the deceased employee applied for voluntary retirement under Rule 48 of CCS (Pension) Rules and Fundamental Rules 56 on the basis of his application/request, the respondents allowed his representation granting him voluntary retirement and thereafter, the benefits of voluntary retirement were also released to the deceased employee. It is also seen that after grant of voluntary retirement on 16<sup>th</sup> August, 2016, the father of the applicant made a request for grant of compassionate appointment on 20<sup>th</sup> June, 2018 i.e. almost after two years of voluntary retirement. The applicant also made a representation on 1<sup>st</sup> August, 2018 for seeking compassionate appointment from the respondent department.

7. The Scheme of Compassionate Appointment is a benevolent scheme evolved by the Government to assist and support a family to relieve them from economic distress due to sudden demise in harness of the Government employee. It is noticed in this matter that the father of the applicant sought voluntary retirement of his own under Rule 48 of the CCS (Pension) Rules and Fundamental Rule 56 and, on the basis of his application, voluntary retirement was accorded to the deceased employee. Thereafter, the deceased government employee requested for grant of compassionate appointment after two years and expired on 22<sup>nd</sup> October, 2019 i.e. after more than 3 years of voluntary retirement. Hence, the basic criteria of dying in harness for grant of compassionate appointment to one of his family members, in this case, does not hold good.

8. In plethora of judgments of Hon'ble Supreme Court, it has been settled / decided that compassionate appointment is not a vested right which can be exercised at any situation or at any point of time. It is also not disputed that the deceased employee after grant of voluntary retirement, had received all his legal dues from the respondent department and the applicant in person has not stated anything in regard to non-payment of any dues admissible to the deceased employee. The impugned order clearly states that the deceased employee had not applied for voluntary retirement under

Rule 38 of the CCS (Pension) Rules, where under, after medical examination by the appropriate medical authority, if it would have been found that the deceased employee was not in a position to perform his duties (even on any other alternative job), then the father of the applicant could have retired on medical grounds and could have applied for compassionate appointment to one of his family member(s) for sustaining the family. Here, in this case, the respondents have acted upon as per the wish of the deceased employee, who wanted to retire under voluntary retirement scheme, and hence, the impugned order does not suffer from any infirmity. In this matter, none of the ingredients for grant of compassionate appointment is being fulfilled. For grant of compassionate appointment, the liability/responsibility left behind by the deceased employee is to be taken into consideration. Here, I do not find any liability/responsibility anywhere stated by the applicant which has been left behind by the deceased employee. Hence, in my considered view, the deceased employee, who sought voluntary retirement of his own and after getting voluntary retirement, made his first representation after two years and survived for three years after grant of voluntary retirement, anyway it does not come within the ambit for grant of compassionate appointment.

9. I have given my considered view and feel that compassionate appointment cannot be a matter of vested right, hence, no interference in the impugned order passed by the respondents is called for.

10. Accordingly, the O.A. is dismissed at the admission stage itself. No order as to costs.

**(JASMINE AHMED)**  
**MEMBER (Judl.)**

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