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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-3034/2004

New Delhi this the 9th day of August, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Muni Devi,
Widow of late Sh. Mew Lal,
R/o H.No. 13, Dhobi Ghat,
Race Course Camp,
New Delhi.

..... Applicant

(through Sh. U. Srivastava, Advocate)

Versus

Union of India through

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Chief of the Air Staff,
Air Headquarters(PC-5),
Vayu Bhawan, New Delhi.
3. Air Officer-in-Charge,(Pers)
Air Hq. Directorate of Personnel
(Civil), Vayu Bhawan,
New Delhi.

..... Respondents

(through Sh. Satya Siddiqui, Advocate)

Order (Oral)

Heard the learned counsel for the parties.

2. The very object of the Scheme for compassionate appointment is to tide over the financial crisis in the family, which has been left in penury. It is

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equally settled as per decision of the High Court of Delhi in Jagwati Devi Vs. U.O.I. & Ors. (102 (2003) DLT 414 (DB) that an application made for compassionate appointment would have to be dealt with as per the instructions in vogue.

3. It is also stated that when there is delay in making compassionate appointment, the very purpose of the Scheme is defeated. Having regard to the above, applicant on the death of her husband on 21.3.1998 preferred an application in April 1998 which was turned down by the respondents vide order dated 9.6.2000 reciting therein that applicant's family had received an amount of Rs. 2,74,127/- as terminal benefits apart from family pension to the tune of Rs. 2548/- per month. It is also stated that elder son is earning Rs. 3294/- per month. It is further stated that there is only 5% quota for compassionate appointment. This decision was reiterated verbatim in respondents' orders dated 5.7.2000 and 14.9.2000.

4. Learned counsel of the applicant in Para 4.6 of the OA states that the respondents in similar circumstances appointed the eldest son Ajay of the deceased who died in harness and, therefore, alleges discrimination. To this, the respondents have not preferred any rebuttal and have denied the same on the ground that the indigent circumstances of the applicant's family have been considered and while considering the claim of the applicant, claim of the applicant is found to be belated one.

5. In my considered view, on careful consideration of the rival contentions of the parties, limitation would not be attributable to the applicant in the present case as the request for compassionate appointment had been made

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Immediately after the death of the earning member. Moreover, as per the decision of the Apex Court in **Surya Kant Kadam Vs. State of Karnataka & Ors.** (2002 SCC (L&S) 1115), there cannot be discrimination in accord of compassionate appointment which could be an ante thesis to the principle of equality enshrined under Article 14 of the Constitution of India. Rejection of the claim of the applicant smacks discrimination as in similar circumstances respondents have accorded compassionate appointment of the elder son, namely, Ajay of another deceased employee.

6. As regards ceiling of 5% quota, it is not disputed that the applicant has made an application for compassionate appointment in April 1998 when the instructions issued by DoP&T in 1999 were not in existence. As such, the applicant would have been taken either under instructions issued in 1998 or 1993, which did not envisage ceiling of 5% quota.

7. In view of the above, O.A. is partly allowed. Respondents are directed to reconsider the claim of the applicant in the light of observations made above within two months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)