

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 27th day of August, 2021

ORIGINAL APPLICATION NO. 330/00784 of 2019

HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Mohd. Ubaish Ansari @ Avesh Ahmad, S/o Momna Bano, R/o Plot No. 31,
Garden No. 6, Rail Bazar, Idgah Meerpur Cantt., Kanpur Nagar.

.....Applicant.

Advocates for the Applicant : Mr. Vinod Kumar

VERSUS

1. Union of India through General Manager, Ordinance Parashute Factory, Napior Road, Cantt., Kanpur – 208004.
2. The Assistant General Manager Ordinance Parashute Factory, Naipior Road, Cant Kanpur 208004.
3. Assistant Work Manager (Admin), Ordinance Parashute Factory, Naipior Road, Cant., Kanpur.

.....Respondents

Advocate for the Respondents : Shri Anil Kumar

ORDER

The applicant seeks employment on compassionate ground in the establishment of the respondents on the plea that his mother, who was holding a Group 'D' post died while in service leaving behind minor children. The applicant while admitting that all the other retiral dues have been released in the favour of the legal heirs holds the grievance that his application for regular appointment on compassionate ground, has been rejected on the ground that he is over-aged and hence cannot be considered to be a dependent of the deceased public servant. For the sake of clarity, the relief sought by the applicant as mentioned in the OA is reproduced below:-

- “(i) to issue an order or direction in the suitable nature of certiorari quashing the impugned dated 18.11.2018 passed by respondent No. 3 (Annexure A-1 to this original application).*
- (ii) To issue an order or direction in the suitable nature directing the respondents department to offer and appointment to the applicant on compassionate ground under the dying-in-harness rules within specified period.*
- (iii) to issue any order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
- (iv) To award the cost of the application to the applicant”.*

2. Brief facts of the case are that the applicant’s mother died in August 2009 and after an arduous process of submitting the necessary succession certificate and other details, the retiral dues were released after a long gap in the year 2018. However, the application for compassionate appointment has been rejected by the respondents on the ground of his being above the age of 25 years.

3. Learned counsel for the applicant argues that at the time of death of his mother, the applicant was minor and solely dependent upon her. Further the initial application for seeking appointment along with release of retiral dues was made in the year 2009 and in accordance with the rules governing the subject the respondents should have considered the status of the applicant with respect to the date of his application. He further contends that the respondents gravely erred in rejecting the request by not considering this application and basing their decision on the basis of the application which he is submitted later on in February 2018.

4. According to the learned counsel for the applicant, the impugned order cannot be sustained since it is the 2009 application which needs to be

decided and relied upon for evaluating the eligibility of the applicant for compassionate appointment.

5. Learned counsel for the respondents points out that the death of mother of the applicant took place in the year 2009 and after a lapse of 12 years the applicant cannot claim that he is under any financial hardship. He further mentions that the record shows that the daughter of the deceased employee i.e. sister of the present applicant had also made an application for appointment on compassionate ground.

6. Learned counsel for the respondents, to further strengthen his arguments, states that the applicant after his initial application in the year 2009 remained silent till the year 2018 and it is after a gap of 9 years that he submitted his second application. This itself is a sufficient evidence that there has been no pressing hardship requiring any intervention by the respondents by way of offering appointment on compassionate ground.

7. I have heard learned counsel for both the parties at length and also meticulously examined the documents on record. In my view the applicant has been awarded all the legal and bonafide dues on account of his mother's death. Appointment on compassionate ground is neither an inalienable right nor sufficiently justified by the facts and circumstances of the case. The principle governing the compassionate appointment is to assess the financial duress of family of deceased government employee and to help them tide over the immediate hardship and crisis on account of the death of the bread winner of the family.

8. In the instant matter, more than a decade has gone since the death took place and at this stage, the applicant cannot claim this appointment as a matter of right or even compassion. Even if I agree to the arguments adduced by the learned counsel for the applicant that the sole ground of the applicant being over-age, cannot be sustained, it has to be kept in mind that the applicant himself chose to remain silent after 2009 till the year 2018 and did not press for his claim during this period

9. In view of the arguments placed above, I do not find any merit in the O.A. which is accordingly dismissed. No order as to costs.

(TARUN SHRIDHAR)
Member (A)

Manish/-