



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Hearing by Video Conferencing

O.A. No.060/00854/2021

Chandigarh, this the **18th August, 2021.**

HON'BLE SH. SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal,
Chandigarh Bench, Chandigarh)

HON'BLE SH. RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal,
Bangalore Bench, Bangalore)

Krishan Kumar s/o late Sh. Mahan Singh, r/o H.No.1281, Phase
I, Ram Darbar, Chandigarh, UT Chandigarh-160002.

Applicant

(BY ADVOCATE: Mr. Anuj Garg)

Versus

1. Chandigarh Administration, Chandigarh through Secretary,
Engineering Department, Sector 9, Chandigarh-160009.
2. The Superintending Engineer, Public Health Circle, Sector 9,
Chandigarh-160009.
3. Executive Engineer, Project P.H. Division No.1, Sec.9,
Chandigarh.

.. Respondents

O R D E R(Oral)

Per: SURESH KUMAR MONGA, MEMBER(J).

Applicant's father, who had been working with the respondent department, unfortunately expired on 5.1.2005 while in service. It is the pleaded case of the applicant that he



applied for appointment on compassionate grounds, however, the respondent department did not take any action. The applicant kept on visiting the respondent department again and again to enquire the status of his application, but there was no reply from the respondent department. However, the communications dated 13.9.2007 and 23.1.2008 appears to have exchanged between the authorities.

2. It has been argued by learned counsel for the applicant that the respondents had never communicated about the status of his application for appointment on compassionate grounds. The officers of the respondent department kept on assuring him, but no action to provide him the appointment on compassionate grounds was taken by them. According to learned counsel for the applicant, the applicant had been writing various letters to the respondents. One of his representations dated 29.7.2019 has been brought on record as Annexure A-6. Thereafter, the applicant received a letter dated 7.11.2019 and after receipt of said letter, he wrote a letter dated 18.11.2019 about his penurious condition and requested the respondents to appoint him on compassionate grounds. Still the respondents failed to take any action and, therefore, he filed an Original Application No.60/243/2021 before this Tribunal which was disposed of on 3.3.2021 with a direction to respondents to take a view on his request and pass a reasoned and speaking order within a period



of one month from the date of receipt of certified copy of the order.

3. Pursuant to aforesaid order passed by this Tribunal, the respondents have now issued an order dated 13.7.2021 declining the applicant's request for grant of appointment on compassionate grounds. A perusal of the said order reveals that the applicant's case was considered by the respondents at the relevant point of time and he could not be granted the appointment on compassionate grounds for the reason that sufficient vacancies meant to be used for appointment on compassionate grounds were not available, against which the applicant could be offered appointment on compassionate ground along with other applicants senior to him. Accordingly, his case was rejected by the respondents at the relevant point of time under the provisions of the policy of 1998 on compassionate appointments.

4. The respondents have very categorically stated that the applicant's case cannot be reopened and reconsidered at this belated stage.

5. We do not see any infirmity in the order dated 13.7.2021 issued by the respondents.



6. By now, it is well established principle that compassionate appointment is not a source of recruitment and it is a mode to provide succour to the family of the employee who dies in harness. The applicant's father died in the year 2005. The family could survive for a period of more than fifteen years. Even otherwise, the applicant's case was considered by the respondents earlier also, but he failed to approach this Tribunal immediately after such a consideration.

7. In the case of **Umesh Kumar Nagpal v/s State of Haryana** 1994(4) S.C.C. 138, the Hon'ble Supreme Court has held that the appointment in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without means of livelihood.

8. The principles laid down by the Hon'ble Supreme Court in **Umesh Kumar Nagpal (supra)** have been followed consistently by the Courts and this Tribunal and recently the Hon'ble Supreme



Court in the case of **State of Himachal Pradesh v/s Shashi Kumar** 2019(3) S.C.C. 653 while summarizing the law on the subject, has again reiterated those principles.

9. In the facts and circumstances, which have emerged in the case in hand, we do not find any substance in the applicant's claim for appointment on compassionate grounds.

10. The Original Application, therefore, deserves to be dismissed and the same is hereby dismissed accordingly.

11. However, there shall be no orders so as to costs.

(Rakesh Kumar Gupta) (Suresh Kumar Monga)
Member(A). Member (J)

KKS.