

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

**HON'BLE MR. A.K. GAUR , MEMBER (J).**

**Original Application Number. 771 OF 2003.**

ALLAHABAD this the 17 day of 7, 2009.

Smt. Ganeshi Devi, aged about 42 years, wife of Late Shri Jagannath, resident of 460 outside Baragaon Gate, Jhansi.

.....Applicant.

**VE R S U S**

1. Union of India through the Secretary, Ministry of Defence, Defence Headquarters, New Delhi.
2. Air Officer I/C (Personnel), Directorate of Personnel (civilian), New Delhi- 110011.
3. Commanding Officer (Civil Administration), Air Force Station, Rajokri, New Delhi- 110038.

.....Respondents

Advocate for the applicant: Sri R.K. Nigam

Advocate for the Respondents: Sri Pranay Krishna

**O R D E R**

The applicant Through this O.A filed under section 19 of Administrative Tribunals Act, 1985 has prayed for quashing the impugned order dated 28.03.2003/Annexure A-I of O.A coupled with prayer for a direction commanding the respondents to issue appointment order on compassionate grounds in favour of the his son Sri Kali Charan in class III/IV.

2. The case of the applicant, in brief, is that the husband of the applicant Late Jagannath, who was a permanent and substantive civilian employee of Air Force and working as Laskar, died on 31.01.2001 leaving behind his wife, two major sons namely Kali Charan and Suresh and one

married daughter Smt. Pista Devi. After the death of deceased employee, the Commanding officer issued a letter dated 05.11.2001 requiring Sri Kali Charan, S/o Late Jagannath to produce the details of immovable property and yearly income therefrom after due verification of Tenhsildar so that matter may be forwarded for onward action with regard to appointment and in response thereto, the applicant submitted the requisite information duly supported with Affidavit within time. Thereafter the matter was referred to the Headquarters Office for appointment of the son of the applicant namely Kalicharan. Learned counsel for the applicant argued that vide order dated 28.03.2003, the respondents have rejected the claim of the applicant in an illegal and arbitrary manner as the decision has been taken without taking the applicant into confidence. Learned counsel for the applicant would further contend that the respondents have failed to consider the relevant rules and guide lines issued by the Govt. of India on the subject in its true spirit and sought for quashment of the said order dated 28.03.2003.

3. On notice, the respondents have filed Counter Affidavit. Learned counsel for the respondents invited our attention to para 8(ii) of relief clause and submitted that the applicant is seeking direction to the respondents to issue appointment order on compassionate ground in favour of her son Sri Kalicharan whereas, as per Hon'ble Supreme Court's decision rendered in the case of **LIC Vs. Mrs. Asha Ram Chandra Ambedkar & Ors. - JT 1994(2) SC 183**, the High Court and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct for consideration on the claim for such an application. Learned counsel for the respondents further argued that in the instant case, the claim of the

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applicant has already been considered thrice alongwith others during the quarter ending June 2002, September 2002 and December 2002.

4. Learned counsel for the respondents would further contend that while considering the case of the applicant, the Board of Officers have taken into consideration various aspects such as size of family including ages of children, amount of terminal benefits, amount of family pension, liabilities regarding unmarried daughter/s and minor children, movable/immovable properties left by the deceased etc. and did not find the applicant fit for offering appointment on compassionate grounds as the family consists of 4 members including wife of the deceased. The family of the deceased has received handsome amount as terminal benefits and is in receipt of family pension and there were more deserving cases and limited number of vacancies and sought for dismissal of the OA being totally devoid of merits. In support of their contentions, learned counsel for the respondents has relied on judgment of Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana and others - JT 1994(3) SC 525** and submits that appointment on compassionate grounds can be considered only if the family is in indigent circumstances and not as a matter of right, which can be executed at any time in future. In the said judgment, Hon'ble Apex Court has further held that the compassionate appointment cannot be granted after lapse of a reasonable period. Learned counsel for the respondents invited my attention towards evaluation chart dated 28.03.2003 related to the selected candidates during the quarter ending June 2002, September 2002 and December 2002 and submitted that the applicant has been awarded 46 marks, which was lower in comparison to the selected candidates.

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5. Applicant has filed rejoinder affidavit reiterated the facts stated in the original application.

6. I have heard rival contentions, perused the pleadings as well as the written arguments filed by the either side.

7. Having heard learned counsel for the parties, I am firmly of the opinion that in view of the decision rendered by Hon'ble Supreme Court in the case of LIC Vs. Asha Ram Chandra Ambekar (Supra), this Tribunal cannot issue direction to the respondents to appoint the applicant on compassionate grounds, as claimed by the applicant in para 8(ii) of O.A and this prayer is rejected.

8. So far as the prayer for the applicant for quashing the order dated 28.03.2003 passed by the respondent No. 3 rejecting the application for appointment of applicant on compassionate grounds is concerned, I have carefully seen the said order and find no illegality or arbitrariness in it. While passing the order dated 28.03.2003/Annexure A-I of O.A, the competent authority has taken into consideration several judgments of Apex Court and guide lines issued by the Govt. of India from time to time on the subject and has passed a detailed and speaking order clearly stating therein that the case of the applicant has already been considered thrice alongwith others during the quarter ending June 2002, September 2002 and December 2002 but due to more deserving cases and limited number of vacancies, the request of the applicant was not recommended by the Board of Officer.

9. In the instant case, the father of the applicant, who was a permanent and substantive civilian employee of Air Force and was

working as Laskar, died on 31.01.2001 and the family has survived during this period. In view of the decisions rendered by Hon'ble Supreme Court in **M.T. Latheesh's case reported in 2006 (7) SCC 350 as well as in the case of State of J&K and Ors. Vs. Sajad Ahmed Mir (2006)5 SCC 766 and 2007(1) SCC (L&S) 668, National Institute of Technology Vs. Manoj Kumar Singh**, the appointment on compassionate ground cannot be granted to the applicant after lapse of sufficient time of the death of an employee. As per the decision of Hon'ble Apex Court rendered in State of J&K (supra), in which it has been held that 'once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution''.

(Underlined to lay emphasis)

10. In view of the aforesaid observation and law laid down by Apex Court, the applicant has failed to make out any case for interference. Accordingly the O.A is dismissed being devoid of merit.

11. There will be no order as to costs.

*Anjam*  
MEMBER- J.

/Anand/