

41
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.205 of 2011

Cuttack this the 26th day of September, 2017


Milan Kumar Barik.....Applicant

-VERSUS-

Union of India & Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? ✓


(DR.MRUTYUNJAY SARANGI)
MEMBER(A)


(S.K.PATTNAIK)
MEMBER(J)

42

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.205 of 2011

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CORAM

HON'BLE SHRI S.K.PATNAIK, MEMBER(J)
HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Milan Kumar Barik, aged about 30 years, S/o. late Gangadhar Barik, At/PO-Budhikhamari, PS-Bangripasi, Via-Kusumbandh, Dist-Mayurbhanj

...Applicant

By the Advocate(s)-M/s.P.Ku.Rath

P.Ku.Satpapathy

R.N.Parija

A.Ku.Rout

S.Ku.Pattnaik

D.P.Pattnaik

-VERSUS-

Union of India represented through:

1. Post Master General, Orissa, Bhubaneswar, Dist-Khurda
2. Superintendent of Post Office, Mayurbhanj Division, Baripada, At/PO/PS-Baripada, Dist-Mayurbhanj

...Respondents

By the Advocate(s)-Mr.S.K.Patra

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

Applicant is the son of a deceased Government employee who, while working as Gramin Dak Sevak (Branch Post Master), Budhikhamari B.O. died in harness on 9.2.2008. On 24.9.2008, the Department of Posts received a letter from the widow of the

43

deceased applying for appointment on compassionate grounds. Since she was already 52 years old, the applicant who was aged around 27 years at that time, applied for compassionate appointment. The Circle Relaxation Committee considered his case and rejected his application. The Superintendent of Post Offices, Mayurbhanj Division (Res.No.2) sent a communication to the applicant on 27.12.2010 (A/3) informing him of the decision of the CRC rejecting his application for compassionate appointment.

Aggrieved by the letter dated 27.12.2010(A/3), applicant has filed this O.A. seeking for the following relief.

“...to admit this Original Application, call for the records and after hearing the parties allow the same setting aside the order under Annexure-3 and Annexure-A/1 respectively so far as the applicant is concerned and direct the Respondents to provide appointment on compassionate ground within the stipulated period”.

2. From the facts of the case enumerated in the O.A., it appears that the applicant has agricultural land to the extent of four acres, none of the family members of the deceased employee is in any job under the Government and the total income of the family is around Rs.19,308/- per annum.

3. In support of his case applicant has urged the following grounds:

- i) The order under Annexure-3 passed by the Respondent No.2 is an unreasoned one and has been passed mechanically without due application of mind. No reasons whatsoever has been assigned

44

to justify the rejection. Therefore, the impugned order under Annexure-3 is liable to be quashed,

- ii) The Circle Relaxation Committee has never made an enquiry to reach at a conclusion that the applicant is not found to be eligible to be appointed under the scheme nor any opportunity of hearing was given to him while rejecting his claim for appointment.
- iii) While the family of the deceased is in indigent circumstances and the applicant is quite eligible to be appointed under the scheme, rejection of his case is illegal and arbitrary in nature.

4. Respondents in their counter reply filed on 23.6.2011 have contested the claim of the applicant. It is their contention that although the applicant has the educational qualification of B.A. and his date of birth is 13.8.1982, the annual income of the family from agricultural source is Rs.27,000/- and from other sources is Rs.30,000/-. Respondents have enclosed copies of the income certificate issued by the Tahasildar, Baripada in favour of the widow Smt.Radharani Barik, the 1st son Pradyumna Barik and the 2nd son, Milan Kumar Barik (applicant in the present O.A.). The respondents have claimed that the case of the applicant was considered by the CRC in its meeting held on 24.11.2010 and was rejected with the observation that the family was found not to be in indigent circumstances. The Respondents have submitted that the family of the applicant has its own house worth Rs.2,80,000/- and Fixed Deposit of Rs.60,000/-. Therefore, they have refuted the claim of the applicant that the income of the family is only Rs.19,308/- and

45

the family is in starvation. The respondents have claimed that as per Hon'ble Supreme Court's judgment dated 28.2.1995 in ***Life Insurance Corporation of India vs. Mrs.Asha Rama Chandra Ambekar & Ors. [JT 1994(2) SC 183]*** the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate ground, but can merely direct consideration of the claim for such an appointment.

5. Applicant has filed rejoinder to counter reply on 8.11.2015. It is his contention that the instruction No.17-17/2000-GDS dated 14.12.2010 is only applicable for compassionate appointment cases to be considered on or after 1.1.2011. In the present O.A., the right of the applicant for compassionate appointment accrued prior to the commencement of the instruction dated 14.12.2010 and therefore, the said instruction cannot be made the basis for consideration of his case for compassionate appointment. The instructions contained in No.17-17/2000-GDS dated 14.12.2010 was subsequently revised by the notification dated 09.12.2012. Applicant has denied that his family has its own house worth Rs.2,80,000/- and his claims is that the joint family has only one tiled house consisting of two rooms and the cost of the house is less than Rs.40,000/-. He has also submitted that the fixed deposit of Rs.60,000/- was encashed immediately after the death of the deceased employee for payment of

46
outstanding medicine bill, hospital expenses and for repayment of hand loan. The CRC has not applied its mind while considering the case of the applicant for compassionate appointment and therefore, the impugned order should be quashed on the grounds of illegality.

6. This matter was heard on 06.09.2017. In the written note of argument, applicant has relied upon the judgment of the Hon'ble Supreme Court in ***Canara Bank & Anr. V. M.Mahesh Kumar (Civil Appeal No.260/2008) delivered on 15.5.2015*** in which it was held that the family pension scheme cannot in any way be equated with the benefit of compassionate appointment and the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance.

7. Learned counsel for the respondents has filed the records pertaining to the consideration of compassionate appointment for the applicant and the minutes of the CRC meeting held in the O/o.CPMG, Orissa Bhubaneswar on 12.12.2011.

From the facts of the case it is apparent that the applicant who is a Graduate was 26 years of age at the time of expiry of his father. His case has been considered by the CRC once in its meeting held on 24.11.2010, i.e., two years after the death of his father.

We have also perused the records relating to the minutes of the CRC dated 12.12.2011. We find that the applicant has

47

scored the total merit points of 49 while his case was considered before the CRC. It is also mentioned in the remarks column as follows:

"His case is reconsidered taking into account the observations dated 6.5.2011 of Hon'ble CAT, Cuttack Bench on O.A.No.205/11. Earlier his case was considered by the CRC on 24.11.2010 and rejected on the ground that the family is not in indigent condition".

8. We find that compassionate appointment has been given to three candidates who have scored merit points of 76, 66 and 62, respectively compared to the merit point of 49 scored by the applicant. The applicant has challenged the basis on which his level of indigence has been determined and there is a dispute between cost of the house as well as the total family income.

9. The Government have issued guidelines on compassionate appointment from time to time including the OM No.14014/6/94-Estt.(D) dated 09.10.1998 of DOP&T. The following principles are followed while considering cases for compassionate appointment:

i) The appointment on compassionate ground may be done when:

- a) a Government servant dies in harness or is retired on medical grounds before attaining the age of 55 years (57 years for Group 'D' Government servants);
- b) the family of deceased Government Servant is in indigent condition;

- 48
- c) the person seeking compassionate appointment is a dependent family member of the deceased Government servant, that is to say that he/she is spouse; son; daughter; brother/sister(in the case of unmarried Govt. servant) of the deceased Government servant who was wholly dependent on him;
 - d) the claimant has attained the age of 18 years;
 - e) the claimant is eligible and suitable for the post on which his compassionate appointment is being considered.
- ii) Any request for compassionate appointment may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.
 - iii) 5% of the vacancies are to be filled by appointment on compassionate grounds.
 - iv) Compassionate appointments can be made in Group 'C' or 'D' post only.
 - v) While considering an application for compassionate appointment, a balanced and objective assessment of financial condition must be made taking into account its assets and liabilities, presence of earning member, size of the family, ages of children, and essential needs of the family etc.
 - vi) An application for compassionate appointment shall not be rejected merely on the ground that the family of Govt. Servant has received benefits under various welfare schemes.
 - vii) Compassionate appointment shall have precedence over absorption of surplus employees and regularization of daily wagers.

By an Office Memorandum dated 5th May, 2003, following modifications were introduced in the compassionate appointment scheme-

- (a) If compassionate appointment to genuine and deserving persons cannot be offered in the first year due to non-availability of regular vacancy, his

49
name must be continued for consideration for one more year.

- (b) The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years.

The DOPT OM No.14014/19/2002-Estt(D) dated 05.05.2003 has provided the following:

- "1. The undersigned is directed to refer to Department of Personnel and Training OM No.14014/6/94-Estt.(D) dated October, 9, 1998 and (O.M.) No.14014/23/99-Estt.(D) dated December, 3, 1999 on the above subject and to say that the question of prescribing a time limit for making appointment on compassionate grounds has been examined in the light of representations received, stating that the one year limit prescribed for grant of compassionate appointment is often resulting in depriving genuine cases seeking compassionate appointments on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% direct recruitment quota.
2. It has therefore been decided that if compassionate appointment to genuine and deserving cases as per the guidelines contained in the above OMs is not possible in the first year due to non-availability or regular vacancy the prescribed committee may, review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year for consideration for compassionate appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the committee a case is considered to be deserving, the name of such a person can be continued for consideration for one more year".
3. The maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years, subject to the

30

condition that the prescribed committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed and will not be considered again".

10. The issue of compassionate appointment has been extensively dealt with in a catena of judicial pronouncements. In the case of **Mukesh Kumar vs. Union of India & vrs., (2007) 2 SCC (L&S) 926** the Hon'ble Supreme Court has remitted the applicant's case back to the Central Administrative Tribunal for fresh consideration since no indication was available on how the the departmental authorities had arrived at the conclusion that the family was not in indigent condition. In **Syed Khadim Hussain vs. State of Bihar & Ors., (2006) 9 SCC 195**, the Hon'ble Apex Court had held that the rejection of the applicant's application was not justified as at the time of rejection appellant had attained above 18 years of age, although at the time of filing the application his age was around 13 years. In **Govind Prakash Verma vs. Life Insurance Corporation of India & ors. (2005) 10 SCC 289**, the Hon'ble Apex Court had held that the scheme of compassionate appointment is over and above whatever is admissible to legal representatives of the deceased employee as benefits of service which they get on death of the employee. Hence compassionate appointment cannot be refused on the ground that any member of family had received such benefits. In **Balbir Kaur &Anr. Vs. Steel**

51

Authority of India Ltd. & Ors. (Civil Appeal No.11881/1996)
and Smt.T.K.Meenakshi and Anr. Vs. Steel Authority of
India Ltd. & Ors (Civil Appeal No.11882/1996), 2002 LAB
I.C. 1900, the Hon'ble Supreme Court had held that benefit of
compassionate appointment cannot be negative on ground of
introduction of scheme assuring regular monthly income to a
disabled employee or dependents of deceased employee. In
Sudhir Sakharam Joshi vs. Bank of Maharashtra & Rnr.
2003(1) Mh.L.J. the Nagpur Bench of Hon'ble High Court of
Bombay had directed the respondents to give an appointment
to the petitioner in clerical cadre since his application for
compassionate appointment was rejected without assigning
any valid reasons. The Hon'ble High Court had held the fact that
retiral benefits given to the deceased cannot be a good ground
for such rejection and no material was produced to show that
any detailed inquiry was made in order to determine the
financial condition of the deceased family. Similarly in **Rajani**
(Smt.) Anr. Vs. Divisional Controller of M.S.R.T.
Corporation, Bhandara & Ors. 2003-IV-LLJ (Suppl) NOC-
474, the Hon'ble High Court of Bombay had ordered grant of
compassionate appointment even, if necessary, by creating
supernumerary post to the wife of an employee compulsorily
retired on medical ground since such compassionate
appointment was denied for more than 10 years resulting in
grave injustice to the family of the said employee. In **Arun**

52

Kumar vs. Union of India & ors. 2002 LABI.C. 3196, the Hon'ble Himachal Pradesh High Court had held that grant of family pension or the fact that the family of the deceased employee was receiving benefit under various welfare schemes cannot be a ground to deny compassionate appointment. In **Smt.M.Reddamma vs. APSRTC & Ors., WP No.23759/1995 dated July 17, 1996**, the Hon'ble High Court of Andhra Pradesh had gone to the extent of issuing a writ of mandamus to appoint the petitioner in a suitable post within three weeks on the ground that the Apex Court and the High Court have held that the appointment on compassionate grounds should be provided to the dependents of the deceased employee immediately after the death of the bread-w9nner to enable the family to tide over the sudden crisis and denial of appointment even after a lapse of six years of making representation amounts to disobedience of the mandate of the Apex Court without any satisfactory explanation for the delay. In **Mona (Smt. & Anr. Vs. Municipal Corporation of Delhi & Others (WP No.4952/1994 dated 11.07.1996)**, the Hon'ble High Court of Delhi had quashed the impugned order denying compassionate appointment on the ground that relevant record justifying denial of appointment was not produced. In **Swati Chatterjee vs. State of West Bengal & ors. (W.P.S.T. No.21/2010 decided on 02.02.2010)** the Hon'ble Calcutta High Court had held that wife of the deceased employee was

53

entitled to compassionate appointment and family pension being one kind of deferred payment and earned by deceased cannot be a valid ground for denying compassionate appointment. In O.A.No.,2060/2008 this Tribunal in its order dated 22.1.2009 had considered the OA in the matter of compassionate appointment and held that the respondents cannot reject the application for compassionate appointment on the that the applicant did not apply within a period of five years. It was held by this Tribunal that the applicant was a minor at the time of the death of his father and deserved to be considered for compassionate appointment after attaining the age of a major. Similarly, in **OA No.1005/2005 in Akeel Ahmed Khan vs. General Manager, State Bank of India & Ors., 2003(4) MPHT 167**, the Hon'ble High Court of Madhya Pradesh had held that if an appointment on compassionate ground is rejected on the grounds of gratuity and provident fund amount received by the family, it will frustrate the entire purpose of compassionate ground appointment. In **Aparna Narendra Zambre & Anr. Vs. Assistant Superintendent Engineer, Sangli & Ors. 2011(5) Mh.L.J., WP No.1284/2011 decided on 01.08.2011**, it was held by the Hon'ble Bombay High Court that the fact of receipt of family pension cannot be the basis to deny benefit of compassionate appointment. In the case of **Director General of Posts & ors. vs. K.Chandrasekhar Rao, Civil Appeal No.9049/2012 arising out of LSP (C)**

54

No.19871/2009 decided on 13.12.2012 and similar Civil Appeals the Hon'ble Apex Court had laid down the principle that the 1998 Scheme floated by the Government should receive a liberal construction and application as it is stated to be a social welfare scheme and largely titled in favour of the members of the family of the deceased employee. The purpose appears to be to provide them with recruitment on a regular basis rather than circumvent the same by adopting any other measure. In **Nirmala Saha & Anr. Vs. Union of India & Ors., 2010(124) FLR 88**, the Hon'ble Calcutta High Court had observed that by merely placing the application for compassionate appointment in three consecutive years from the date of filing the application irrespective of the fact that there were no vacancies will result in the applicant being deprived of the benefit under the scheme. In the case of **National Institute of Technology vs. Niraj Kumar Singh (2007) 2 SCC 481**, the Hon'ble Apex Court had laid down the following principle with regard to compassionate appointment.

"All public appointment must be in consonance with Article 16 of the Constitution of India. Exception carved out therefore are the cases where appointments are to be given to the widow or the dependent children of the employee who died in harness. Such an exception is carved out with a view to see that the family of the deceased employee who has died in harness does not become a destitute. No appointment, therefore, on compassionate ground can be granted to a person other than those for whose benefit the exception has been

55

carved out. Other family members of the deceased employee would not derive any benefit thereunder”.

In **Haryana SEB vs. Naresh Tanswar** (1996) 8 SCC 23, **Santosh Kumar Dubey v. State of UP**, (2009) 6 SCC 481, **Haryana SEB vs. Krishna Devi** (2002) 10 SCC 246, **State of U.P. vs. Paras Nath** 1998, (1998) 2 SCC 412 and **National Hydroelectric Power Corporation vs. Nanak Chand** (2004) 12 SCC 487, the Hon'ble Apex Court had recognized the need for providing compassionate appointment when the family of the deceased is in dire needs. In **State Bank of India vs. Anju Jain** (2008) 8 SCC 475, the Hon'ble Supreme Court had pertinently observed the following.

“Appointment on compassionate ground is never considered a right of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per settled law, when any appointment is to be made in Government or semi-Government or in public office, cases of all eligible candidates must be considered alike. That is the mandate of Article 14. Normally, therefore, State or its instrumentality making any appointment to public office, cannot ignore such mandate. At the same time, however, in certain circumstances, appointment on compassionate ground of dependents of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread earner. It is thus an exception to the general rule of equality and not another independent and parallel source of employment”.

In the case of **V. Sivamurthy Vs. State of A.P.**, (2008) 13 SCC 730, the Hon'ble Supreme Court have observed the following in respect of principles relating to compassionate appointment.

“.....9. The principles relating to compassionate appointments may be summarized thus;

(a) Compassionate appointment based only on descent is impermissible. Appointments in public service

56
 should be made strictly on the basis of open invitation of applications and comparative merit, having regard to Articles 14 and 16 of the Constitution of India. Though no other mode of appointment is permissible, appointments on compassionate grounds are well recognized exception to the said general rule, carved out in the interest of justice to meet certain contingencies.

(b) Two well recognized contingencies which are carved out as exceptions to the general rule are;

(i) Appointment on compassionate grounds to meet the sudden crisis occurring in a family on account of the death of the bread-winner while in service.

(ii) Appointment on compassionate ground to meet the crisis in a family on account of medical invalidation of the bread winner.

Another contingency, though less recognized, is where land holders lose their entire land for a public project, the scheme provides for compassionate appointment to members of the families of project affected persons. (Particularly where the law under which the acquisition is made does provide for market value and solatium, as compensation).

(c) Compassionate appointment can neither be claimed, nor be granted, unless the rules governing the service permit such appointments. Such appointments shall be strictly in accordance with the scheme governing such appointments and against existing vacancies.

(d) Compassionate appointments are permissible only in the case of a dependant member of family of the employee concerned, that is spouse, son or daughter and not other relatives. Such appointments should be only to posts in the lower category, that is, class III and IV posts and the crises cannot be permitted to be converted into a boon by seeking employment in Class I or II posts."

11. A perusal of the catena of judgments pronounced by the Hon'ble Apex Court, Hon'ble High Court and various Benches of this Tribunal discussed at para 14 and 15 above

57

makes it abundantly clear that the Courts of law have firmly supported the principle that compassionate appointment cannot be denied merely because the family of the deceased have got some financial benefits consequent to the death of the sole bread winner of the family. The overwhelming trend of the judgments is that the applicants for compassionate appointment have to be considered for providing a fresh job so that the immediate financial need can be met and dire consequences of distress can be avoided. At the same time in various judgments the Courts have also laid down the principles that compassionate appointment is not a matter of right and cannot take away the principles enunciated in the constitution of equal opportunity for employment. In **V.Sivamurthy Vs. State of A.P., (2008) 13 SCC 730, Santosh Kumar Dubey Vs. State of U.P., (2009) 6 SCC 481**, it has been held that there is no vested right on the relatives of the deceased employee to seek and obtain compassionate appointment. In **Umesh Kumar Nagpal Vs. State of Haryana, (1994) 4 SCC 138**, the Hon'ble Apex Court clearly stated that in public service appointments should be made strictly on the basis of open invitation of applications on merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of

58

the employee while in service leaving his family without any means of livelihood.

12. Keeping this in mind, the government in their wisdom have put a ceiling of 5% of direct recruit posts for compassionate appointment. This obviously implies that the opportunity for compassionate appointment will be limited and there will be a stiff competition for the jobs since at any point of time the number of applicants for compassionate appointment will far exceed the number of jobs available (5% of the direct recruitment posts). The government have also made provision for consideration of the applications for compassionate appointment giving equal opportunity to all such applicants by providing for their consideration in the appropriate Committee for Compassionate Appointment which will examine each application against certain laid down criteria. Such criteria include the level of indigence of the family, family pension, terminal benefits, monthly income, number of earning members and income from property, extent of movable/immovable property, number of dependents, number of unmarried daughters, number of minor children and left over service of the deceased employee. There is a reasonable expectation on the part of the applicants that their cases will be considered against a properly laid down criteria on an equal footing with other applicants and those who are the most

nd

59

deserving will be offered appointment on compassionate ground.

13. In 2012, the Government issued the DOPT OM No. F. No. 14014/3/2011-Estt.(D) dated 26.07.2012 in which the time limit for consideration of the request for compassionate appointment has been removed. The OM dated 26.07.2012 and the subsequent clarification dated 04.10.2012 read as follows:

"The primary objective of scheme for compassionate appointment circulated vide O.M. No. 14014/6/94-Estt(D) dated 09.10.1998 is to provide immediate assistance to relieve the dependent family of the deceased or medically retired Government servant from financial destitution i.e. penurious condition. The Hon'ble Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind".

2. This Department's O.M. No. 14014/6/ 1994-Estt. (D) dated 09.10.1998 provided that Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it was, however, to be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as

adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases was to be taken only at the level of the Secretary of the Department/Ministry concerned.

3. Subsequently vide this Department's O.M. No. 14014/19/2002-Estt. (D) dated 5th May, 2003 a time limit of three years time was prescribed for considering cases of compassionate appointment. Keeping in view the Hon'ble High Court Allahabad judgment dated 07.05.2010 in Civil Misc. Writ Petition No. 13102 of 2010, the issue has been re-examined in consultation with Ministry of Law. It has been decided to withdraw the instructions contained in the O.M. dated 05.05.2003."

Clarification dated 04.10.2012:

Sub: Clarification for clarification to consideration of compassionate appointment cases reg.

Sir,

In continuation of Board's letter of even number dated 03.08.2012 on the above mentioned subject and to say that with reference to the DOP&T instruction contained in their OM No. 14014/3/2011-Estt.(D) dated 26.07.2012 a reference was made them to clarify whether the cases of compassionate appointment already decided and closed after expiry of 3 years in terms of their OM dated 5.5.2003 are required to be re-opened/examined or not.

2. The DOPT has now clarified that "with issue of instructions dated 26.07.2012, there is no time limit for consideration of request for appointment on compassionate grounds which is to be considered on merit in terms of instructions contained in their Department's OM dated 09.10.1998 as amended from time to time. To avoid grievances/litigations administrative Department is advised to consider requests for compassionate appointment which have been already considered/closed again and take decision on merit of the case".

3. The above decision may please be brought to the notice of all concerned for information, guidance and compliance."

61

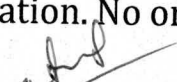
14. A careful perusal of instructions issued by the Government leads to the conclusion that every applicant for compassionate appointment is entitled for consideration within the overall ceiling of 5% quota of the new vacancies. It is expected that the concerned Department will fix the number of vacancies for each year constituting 5% of the new vacancies, will determine the eligibility of the applicants, assess the level of indigence taking into account the various criteria prescribed such as, the number of years' service left for the deceased, the number of dependents family members, the annual income of the family, the value of assets own by the family etc. It is also incumbent on the respondents to determine the level of indigence and the comparative merit of each applicant, composite score or a relative comparison of various criteria and conclusively select the most deserving cases among the applicants for compassionate appointment. It is also the prevalent rule that the number of chances for each applicant has been determined as three. But the earlier time limit of 5 years has since been removed. Since 2010, it is, therefore, necessary and incumbent on the part of the respondents to consider each applicant's case 3 times without any limitation of time period. In the present O.A., the applicant's case has been considered twice. He is entitled to one more consideration. Records do not show that the Welfare Inspector or a suitable representative from the Office of the Respondents had visited


62

the applicant's home and enquired about his level or the family's indigence. This has given rise to dispute between the values of the house property and land assets owned by the applicant.

15. In view of the above, the respondents are directed to depute a Welfare Inspector or a suitable official to the applicant's house and make suitable assessment of his financial condition, his level of indigence and his eligibility for consideration for compassionate appointment. After the receipt of the Welfare Officer's report, the applicant's case may be put up before the CRC for the 3rd time as provided by the rules and appropriate decision may be taken on his application for compassionate appointment. This exercise should be completed within a period of 12 weeks from the date of receipt of this order.

16. The O.A. is disposed of with the aforesaid direction and observation. No order as to costs.


(DR.MRUTYUNJAY SARANGI)
MEMBER(A)


(S.K.PATTNAIK)
MEMBER(J)

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