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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application. No. 287/2011

Date of decision: 28.09.2012.

CORAM:

HON'BLE DR. K.B.S.RAJAN, MEMBER (JUDICIAL)

Rukmani Devi Widow of Late Shri Noratan Mal aged about 44 years, resident of Village and Post Banar District Jodhpur Wife of Ex. Mazdoor Late Shri Noratan Mal, 19 FAD, C/o 56 A.P.O.

Applicant
[Mr. S.K.Malik, Advocate]

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Commandant, 19 Field Ammunition Depot, C/o 56 A.P.O.
3. The Personnel Officer, 19 Field Ammunition Depot, C/o 56 A.P.O.

..... Respondents
[Mr. Vinit Mathur along with Mr. Ankur Mathur, Advocates]

O R D E R

The applicant's husband Shri Noratan Mal, expired on 14-02-2002 while working in the respondents' organization and the applicant filed an application for compassionate appointment on 23-01-2003, which was considered three times but rejected as she could not get the requisite number of points on the basis of the norms prescribed. The rejection order dated 25-02-2011 referring to the aforesaid application dated 23-01-2002 is under challenge.

The following is the relief sought:-

"(a) By an appropriate writ, order or direction impugned

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orders dated 25.02.11, Annex.A/1, be declared illegal and be quashed and set aside as if this was never issued against the applicant.

(b)By an order or direction respondents may be directed to reconsider the case of Applicant and give appointment on compassionate ground on any Group 'D' post.

(c)Any other relief which is just and proper be passed in favour of the applicant in the interest of justice.

2. Respondents have contested the O.A. They have stated that the prescribed method of awarding points for various parameters had been adopted uniformly in all the cases and for three years, the case of the applicant has been considered. Since more deserving cases were to be granted appointment, the applicant could not be afforded any compassionate appointment.

3. As the comparative statement indicating the points obtained by others and the applicant had not been filed, the respondents were directed to produce the details and the same have been produced.

4. Counsel for the applicant does not question the principle behind the method of calculation of points under various headings. His only grievance is that uniformity has not been followed in respect of awarding points for family pension. In addition the counsel submitted that though value of the immovable property has been taken at Rs.90,000, the fact that the property was bought under LIC Housing loan and that an amount of Rs 1,60,313/- plus Rs 575/- vide Annexure A-7 was due and to be paid had not been taken into account by the respondents.

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5. Counsel for the respondents submitted the as per an order dated first of March 2004, 50% of the dearness relief was to be merged with the basic family pension and in the same is taken into account the family pension of the applicant which is initially is Rs. 1748/-, would amount to Rs. 2622/-.

6. Counsel for the applicant submitted that the comparison of the marks awarded in respect of family pension as per the statement provided would reflect that in some cases, especially those who have been granted compassionate appointment, the respondents have taken only the basic family pension and not the family pension as incremented by addition of 50% of the dearness relief in contradistinction to the case of the applicant. He had in this regard referred to the statement for the year 2004 and cited the very first name Shri Dhirendra Jha, whose father died on 22nd of April 2000. The family pension in the case of the applicant therein had been shown as Rs.1275/-. This amount, according to the applicant's counsel is the minimum family pension prevalent at the time. Obviously the amount cannot include 50% of the dearness relief. If only the basic pension in the case of the applicant also has been taken into account the same would result in 14 points instead of six points awarded by the respondents. In that event, the total points of the applicant would go to 73 instead of 65 and the applicant would've been second in the rank for compassion appointment. The case of one Smt. Rafiqa Bano at serial No. 5 was also cited to show that therein too, the extent of 50% of dearness relief would not have been added. For, the minimum family pension at the material point of time was Rs. 1275/- which on being

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incremented by addition of 50% of Dearness Relief, (which works out to Rs 638/-) would amount to Rs.1,913/-. Similarly the counsel referred to the calculation made in respect of subsequent years as well.

7. The applicant's counsel has referred to those cases where the date of demise of the government servant was prior to 31-3-2004, i.e. where family pension has been paid prior to 31-03-2004. The Counsel further stated that even if the other aspect of the loan taken by the deceased individual is not taken into account, then also the applicant becomes eligible for compassion appointment on the basis of the 73 points.

8. Counsel for the respondents submitted that insofar as immovable property is concerned it is based on the statement given by the applicant herself. In so far as inclusion of 50% of dearness relief with the basic family pension in respect of others, it is a matter to be verified from the records as off hand the counsel may not be in a position to confirm the same.

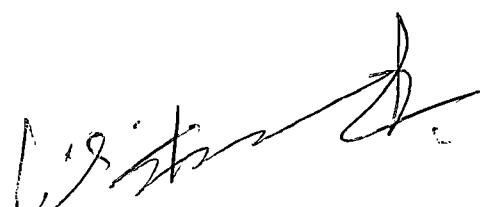
9. Arguments were heard and documents perused. There is substance in the contention of the counsel for the applicant that the respondents would not have uniformly applied for calculation of points in respect of family pension. If they have taken into account 50% of dearness relief in respect of the applicants and awarded only six points whereas in the case of others whom appointment as the granted they have taken into account only the basic family pension without any regard to addition of 50% of dearness relief, as contended by the counsel for the applicant, the matter requires review of such cases. If the contention of the applicant turns out to

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be true, it would require uniform method of calculation in respect of all. That may result in entirely a different situation. Some who have been granted appointment may not be eligible for the same while some others . If some of the individuals granted compassionate appointment are found to be ineligible and their services are to be terminated, the same would pose problems for such individuals. Their appointments may have to be saved in that event. It is for the respondents to find out a way whereby such situation does not arise and at the same time the case of the applicant is considered uniformly adopting the method of calculation.

10. In view of the above the O.A. is disposed of with a direction to the respondents review the compassion appointment so far made to ascertain whether points are awarded in respect of family pension taken into account uniformly 50% of the dearness relief in respect of all. If not the entire drill of consideration has to be repeated by way of a review and the results implemented. This being a time consuming process, a period of eight months is granted for undertaking the exercise of review and act accordingly. If applicant comes within the merit on the basis of the points earned by her, the applicant may be suitably accommodated.

11. No orders as to costs.



[Dr. K.B.S. Rajan]
Judicial Member