

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

Original Application No. 290/00287/2014

Jodhpur, this the 9<sup>th</sup> day of April, 2015

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Judicial Member  
Hon'ble Ms. Meenakshi Hooja, Administrative Member

Avatar Kishan s/o late Shri Udai Kishan aged about 31 years, by caste Acharya, resident of Killi Khan, Kile Ki Ghati, Jodhpur (father of applicant namely Late Shri Udai Kishan was working as Group 'D' employee on the post of Watchman and died while in service on 06.10.2011)

.....Applicant

By Advocate: Mr. A.K.Kaushik

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Defence, Government of India, New Delhi.
2. Chief of Air Staff, Indian Air force, Vayu Bhawan, New Delhi-10
3. AOC MC Southern Western Air Command, Gandhi Nagar, Gujarat-382010
4. Station Commander, 22 S.U. Air Force Station, Jodhpur II-342011
5. C Adm O, 22 S.U., Air force c/o 56 APO.

.....Respondents

By Advocate : Mr. M.S.Godara

ORDER (ORAL)

Per Justice K.C.Joshi

In the present OA, the applicant is assailing validity of the order dated 23.09.2013 (Ann.A/1) whereby the applicant has not been considered dependent for granting appointment on compassionate grounds therefore,

set aside and the respondents may be directed to consider the case of applicant and provide appointment to the applicant on compassionate grounds forthwith.

2. Short facts of the case are that the father of the applicant while working in the respondent department on the post of Group-D expired on 6.10.2011. After death of his father, the applicant submitted application for grant of appointment on compassionate grounds and also furnished the requisite documents. Thereafter time and again, the applicant also approached the respondent department for ventilating his grievances regarding appointment on compassionate grounds. The applicant also served a legal notice dated 14.6.2013 upon the respondents. The applicant has further submitted that subsequently other required documents were also provided to the respondents, but the respondent No.5 vide letter dated 23.9.2013 informed the applicant that a married son is not considered dependent on the Government servant, therefore, his case was not considered for compassionate appointment. Hence, aggrieved of the action of the respondents the applicant has filed the present OA praying for grant appointment on compassionate grounds.

3. In reply to the OA, the respondents have submitted that applicant has submitted application dated 4.7.2012 for seeking appointment on compassionate grounds. However, on scrutiny of the application, it was noticed that both the sons of the deceased employee including the applicant are married and as per the policy issued by the DOP&T dated 16.1.2013 and

Government servant, therefore, the case of the applicant could not be considered being not dependent of the deceased. Therefore, the applicant is not entitled to any relief.

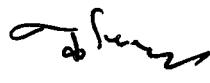
4. Heard learned counsel for both the parties. Counsel for the applicant contended that the respondents have rejected the case of the applicant on the ground that both the sons of the deceased employee are married and therefore, cannot be considered dependent on the deceased employee, which is nothing but totally illegal and unjust and the new policy does not contain such embargo. The father of the applicant was sole bread earner in the family and the family and applicant were wholly dependent upon the deceased employee, therefore, the respondents should have considered the case of the applicant looking to the financial crisis being faced by the members of the family.

4. Per contra, counsel for the respondents contended that only deserving cases can be considered for appointment on compassionate grounds as per provisions made by the Government and as per the DoP&T OM dated 16.1.2013 and 30.5.2013 received from MOD letter dated 19.7.2013, the married son is not considered as dependent for granting appointment on compassionate grounds, therefore, the applicant is not entitled to any relief. During the course of arguments, the counsel for the respondents has produced DoPT's FAQ dated 25<sup>th</sup> February, 2015, wherein it is clarified that a married son can be considered for compassionate appointment if he otherwise fulfils all the other requirements of the scheme.

5. Considered the rival contentions of the parties and perused the record. It appears that the case of the applicant has been rejected by the respondent department only on the ground that the married son is not entitled to appointment on compassionate ground on the basis of DoP&T OM 16.1.2013 and 30<sup>th</sup> May, 2013 and not on the ground of indigent condition of the family of the deceased employee. Since the object of the scheme for compassionate appointment is to assist the family of the deceased employee who left the family in penury and without any means of livelihood, therefore, it will be in the interest of justice, if the respondent department reconsiders the case of the applicant in view of the DoP&T clarification dated 25<sup>th</sup> February, 2015. So far as the provision in the clarification dated 25<sup>th</sup> February, 2015, that the cases already settled w.r.t. the OM dated 30<sup>th</sup> May, 2013 may not be reopened is concerned, since the action of the respondent has been challenged in the present OA, therefore, the matter cannot be said to be settled.

6. Accordingly, the OA is disposed of with direction to the respondents to re-consider the case of the applicant for appointment on compassionate grounds in the light of the clarification dated 25<sup>th</sup> February, 2015 within a period of three months from the date of receipt of a copy of this order. No order as to costs.

  
(MEENAKSHI HOOJA)  
Administrative Member

  
(JUSTICE K.C.JOSHI)  
Judicial Member

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