

**Central Administrative Tribunal, Lucknow Bench, Lucknow**  
**O.A. No. 85/2010**

This the 8th day of October, 2010

**Hon'ble Shri Justice Alok Kumar Singh, Member (J)**

1. Smt. Bachchi Jaiswara widow of Mahangoo, Jaiswara, aged about 70 years
2. Suresh son of late Mahangoo Jaiswara aged about 36 years  
Resident of village Jafarpur post office Sri Rampur, District-  
sultanpur. .

Applicant

By Advocate: None

Versus

1. Union of India through the Secretary to Govt. Ministry of Defence, Central Civil Secretariat, New Delhi.
2. General Manager, Gun and Shell Factory, Cossipore, Kolkatta (W.B.)

Respondents

By Advocate: Sri K.K.Shuklal

**ORDER (Dictated in Open Court)**

**By Hon'ble Sri Justice Alok Kumar Singh, Member (J)**

On the last occasion also, no body on behalf of the applicant had turned up. Heard the learned counsel for respondents and perused the material on record.

2. At the outset, it may be mentioned that it is an Original Application seeking compassionate appointment which has been filed along with an application for condonation of delay.

3. Briefly stated the facts are that the husband/ father of the applicants, Mahangoo Jaiswara was due to retire from service on 31.1.2000 on attaining the age of superannuation. But unfortunately, he got missing from 22.2.1999. The wife of the employee lodged a FIR No. 13 dated 11.10.99 under Kotwali Police Station, Kadipore Dist. Sultanpur U.P.. Ultimately, he was declared as retired from service w.e.f. the date of his superannuation i.e. on 31.1.2000. Thereafter, all the retrial benefits have also been paid to his legal heirs in terms of Rule 54 Of CCS

(Pension ) Rules, 1972. Factory order dated 11.12.2004 was also published (Annexure 1).

4. It is submitted on behalf of the respondents that in respect of compassionate appointment, several court cases were adjudicated from time to time in different courts of law (including Hon'ble Apex Court ) and in the light of various judgments and also keeping in view recommendations of the 5<sup>th</sup> Central Pay Commission as well as Study Report of 1990 and 1994 prepared by the department of Administrative Reforms and Public Grievances on the subject, the instructions for making compassionate appointment under the central Govt. have been reviewed / revised/ simplified, as "Scheme for Compassionate Appointmneet" under Ministry of Personal , Public Grievances and Pension dated 9.10.1998. In this Office memorandum No. 14014/6/94- Estt (D) dated 9.10.98, though the case of missing govt. employees are also covered under this scheme but the same can be considered only on the following conditions:-

- a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Govt. servant has been missing , provided that
- i) an FIR to this effect has been lodged with the police
  - ii) The missing persons is not traceable ; and
  - iii) The competent authority feels that the case is genuine.

But according to this scheme , such benefit is not applicable to the cases of a govt. servant who had less than two years of retirement from the .date to which he has been missing, as in the present case, or committed fraud , or suspected to have joined any terrorist organization or suspected to have gone abroad. Further , it cannot be claimed as a matter of right as in the case of others and it will be subject to fulfillment of all the conditions , including the availability of vacancy.

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Besides, while considering such a request, the result of the police investigation should also be taken into account.

5. It is pointed out that in the present case, as mentioned above, the employee was due to retire within less than 2 years. Therefore, in view of the embargo envisaged in the aforesaid office memorandum, the request for compassionate appointment made by widow and son, cannot be acceded to. Besides, the details of retrieval benefits to show the economic condition of the family have also not been brought on record. Not only this, it is a stale matter which has been brought before this Tribunal after a long gap of about 8 years and there is no ground to condone the delay. In view of the above, the delay condonation application is rejected and this O.A. is also dismissed without admission.

No order as to costs

*Alok Singh* 8.10.10

**(Justice Alok Kumar Singh)**  
**Member (J)**

HLS/-

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closed - 8-10-2010  
Bengal  
12-10-2010*