

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

14

ORDERS OF THE BENCH

Date of Order: 19.04.2012

OA No. 544/2010

Mr. Yogesh Pujari, proxy counsel for
Mr. D.P. Pujari, counsel for applicant.
Mr. V.K. Pareek, proxy counsel for
Mr. Mukesh Agarwal, counsel for respondents.

At the request of learned counsel for the parties, put
up the matter on 10.05.2012 for hearing.

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

10/05/2012

Mr. Yogesh Pujari, proxy counsel for
Mr. D.P. Pujari, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondent

Heard.

O.A. is disposed of by a separate
order on the separate-sheets for the
reasons recorded therein.

K. S. Rathore
(Justice K.S. Rathore)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 10th day of May, 2012

Original Application No.544/2010

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDICIAL)

Akilesh Kumar
s/o late Shri Ram Pal,
r/o 50/352, Sector-5,
Pratap Nagar,
Sanganer, Jaipur

.. Applicant

(By Advocate: Shri Yogesh Pujari for Shri D.P.Pujari)

Versus

1. The Union of India,
through the Secretary,
Ministry of Home Affairs,
Govt. of India,
New Delhi.
2. Registrar General
(Head of Department),
Ministry of Home Affairs,
Government of India,
New Delhi.
3. The Director,
Directorate of Census Operations,
Rajasthan,
6-B, Jhalana Doongari,
Jaipur

4. Dy. Director,
Directorate of Census Operations,
Rajasthan,
6-B, Jhalana Doongari,
Jaipur.

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

O R D E R (ORAL)

The brief facts of the case are that applicant's father was working with the respondent department as Class IV employee and while in service he died on 23.12.2006. The applicant applied for appointment on compassionate grounds in place of his father along with educational qualification and caste certificate, as the applicant belongs to OBC category. After submitting the application for compassionate appointment 10.1.2007, since the same was not responded by the respondents, the applicant again submitted application dated 18.8.2007 for the same purpose. The respondents vide letter dated 16.5.2008 informed the applicant that the matter has been referred to the Head of Department, New Delhi and the same is pending consideration with them and ultimately the respondents vide letter dated 22.1.2010 rejected the claim of the applicant for appointment on compassionate grounds. Therefore, this OA has been preferred on the ground that the impugned order dated 22.1.2010 has been passed without assigning any reason and while rejecting the case of the applicant, the respondents have not rightly assessed the financial condition of the family of the deceased



employee. Therefore, by way of this OA, the applicant has prayed that the impugned order dated 22.1.2010 (Ann.A/1) be declared null and void and be quashed and set aside and this Tribunal may direct the respondents to give appointment to the applicant on compassionate grounds on a suitable post.

2. On the contrary, the learned counsel appearing for the respondents submitted that the scheme of compassionate appointment is a welfare measure introduced by the Government with a view to enable the family of the deceased Govt. servant to tide over sudden crisis and relieve it from financial destitute and help it to get over the emergency. As per the scheme, only 5% of the Direct Recruit vacancies of Group 'C' and 'D' are available for compassionate appointment and the same can be granted to the most deserving case keeping in view the financial condition and liability of the deceased Govt. servant.

3. The learned counsel appearing for the respondents also referred to the DOPT instruction vide OM dated 5.5.2003 wherein it is stipulated that case of compassionate appointment can be considered for a maximum period of 3 years. After 3 years, if the compassionate appointment is not offered to the applicant, his case will be finally closed and will not be considered again.

A handwritten signature consisting of a stylized '19' followed by a flourish.

4. So far factual aspect is concerned, it is stated by the respondents that the applicant is elder son of late Shri Rampal who was working as Peon and died in harness on 23.12.2006 at the age of 49 years. As per application dated 11.1.2007, the family comprises his widow and three adult children son, aged 32 years and two daughters 24 and 21 years. On field inspection conducted, it came out that the applicant on seasonal private job in Jaipur was earning Rs. 3000 per month. After the demise, his widow received Rs. 2,19, 845 as terminal benefits and she was getting a monthly pension of Rs. 2963 per month at that time. As a spouse of the deceased Govt. servant, she is also entitled for medical facilities, as available under the CGHS and CS (MA) Rules. The family owns a residential plot of 45 sq. yd. at Tonk Road, Jaipur and the entire family is living in his own house at Jaipur. Thus, the case was not of financial destitute or emergency.

5. It is also stated that the applicant's case was considered several times. Firstly, it was considered in the O/o ORGI on 18.5.2007 but he was not shortlisted. Subsequently, the Review Committee also considered the case of the applicant in the meetings held on 14.7.2008, 21.11.2008, 7.1.2009 and 9.3.2009 but again he did not qualify in the merit list among the other deserving candidates. The applications for grant of compassionate appointment are examined on the basis of weighted merit points in respect of various relevant parameters, such as amount of family pension and terminal benefits,



monthly income of earning members, movable/immovable property, number of dependents, unmarried daughters and minor children and left over service of the deceased employee. This system is in accordance with the scheme of compassionate appointment framed by the Ministry of Defence vide ID dated 9th March, 2001 and 9.4.2002.

6. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record as well as pleading of the parties and the provisions of law, it is not disputed that an amount to the tune of Rs. 2,19,845 has been received by the widow of the deceased employee as terminal benefits and she was getting a family pension of Rs. 2963/- at that time. The family owns a residential house to live in and has no liability like education of minor children etc. The committee time and again considered the case of the applicant for compassionate appointment, but in comparison to other candidates his case was not found to be in more financial destitute.

7. The proposition of law on the issue has already been settled by the Hon'ble Supreme Court in the case of Santosh Kumar Dubey vs. State of U.P. reported in (2009) 6 SCC 481, wherein the Hon'ble Supreme Court held as under:-

"11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that



are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to over come sudden economic crisis occurring in the family of the deceased who had died in harness. But this, however, can not be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service."

8. Further, the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana and ors., reported at 1994 SCC (L&S) 930 held that whole object of granting compassionate employment is to enable the family to tide over the sudden crisis and not to provide employment. Further observed that mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family and it is only if it is satisfied that for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible members of the family.

9. In Haryana State Electricity Board vs. Naresh Tanwar and Anr., 1996 SCC (L&S) 816 reported at 1996 SCC (L&S) 816, the



Hon'ble Supreme Court having considered the decision in the case of Umesh Kumar Nagpal observed that compassionate appointment cannot be granted after a lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad's case, it has also indicated that the very object of appointment of dependent of deceased employee who dies in harness is to relieve the immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years.

10. Applying the above ratio decided by the Hon'ble Supreme Court to the present case, admittedly, father of the applicant expired on 23.12.2006 and case for compassionate appointment was considered by different committees up to the year 2009 but his case not found most deserving in comparison to other candidates. The family of the deceased employee has been able to maintain itself and as per assessment of financial condition of the family, the Screening Committee did not find the family in most indigent condition. As per the principles as laid down by the Supreme Court (supra), the compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate appointment cannot be claimed and offered after a lapse of 3 years



time and after the crisis is over. The very fact that family has survived for a considerable long period apparently shows that family has pulled on without any difficulty. Thus, according to ratio decided by the Hon'ble Supreme Court, the applicant is not entitled for appointment on compassionate grounds.

11. Therefore, I do not find any merit in this OA and the same being devoid of merit fails, which is hereby dismissed with no order as to costs.



(JUSTICE K.S.RATHORE)
Judi. Member

R/