

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

17.07.2012

OA No. 51/2011 with MA 44/2011

Mr. P.N. Jatti, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard learned counsel for the parties.

The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

Jaipur, the 17th day of July, 2012

ORIGINAL APPLICATION No. 51/2011
With
Misc. Application No. 44/2011

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Lalit Jonwal son of Ramu Lal Jonwal, by caste Jonwal, aged about 29 years, resident of Village and Post Bilwa, The. Sanganer, District Jaipur.

... Applicant
(By Advocate : Mr. P.N. Jatti)

Versus

1. Union of India through the Registrar General, Census Ministry of Home Affairs/Grah Mantralaya, New Delhi.
2. Director Census, Director of Census Operations, Rajasthan 6-B, Jhalana Doongri, Jaipur-4.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"(i) That by a suitable writ/order or the directions the respondents be directed to provide the appointment on the base of the compassionate grounds.
(ii) That the impugned order dated 22.01.2010 received on 28.01.2010 be quashed and set aside.
(iii) Any other relief which the Hon'ble Bench deems fit."

2. Learned counsel for the applicant argued that the father of the applicant was the employee of the respondents and while in

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service, he expired on 08.08.2006 leaving the large family behind him. The deceased employee, Shri Ramu Lal Jonwal, left behind his widow, three married daughters, one unmarried daughter and two unmarried sons. The applicant submitted an application to provide him appointment on compassionate grounds on 07.09.2006. The condition of the family was very indigent as there was one unmarried sister and two unmarried brothers. That the respondents did not inform the fate of his application dated 07.09.2006 till he received a letter dated 22.01.2010 (Annexure A/2). In the intervening period, the applicant made a fresh request to the respondents to give him appointment on compassionate grounds vide letter dated 27.05.2008 (Annexure A/5). The respondents vide their letter dated 29.05.2008 (Annexure A/6) informed him that his request has been forwarded to the Director General Census and he would be informed about the decision taken by the competent authority as & when it is received. That the applicant did not receive any reply and, therefore, he made a fresh representation to the respondents dated 16.03.2009 (Annexure A/7). He further argued that rejection of application of the applicant for appointment on compassionate ground vide order dated 22.01.2010 is against the provisions of scheme. The family of the applicant is indigent and, therefore, he should be allowed appointment on compassionate grounds.

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3. On the contrary, learned counsel for the respondents argued that as per the policy of the respondents, compassionate appointment can be granted to the applicant if his case is found to be most deserving in view of the financial condition and the liability of the deceased government servant. Besides, it is stated that in term of the DOPT's instructions contained in their OM NO. 14014/1/19/2002-Estt. (D) dated 05.05.2003 (Annexure R/1), a case of compassionate appointment can be considered for maximum period of 3 years. After 3 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.

4. He further argued that as per the application dated 07.09.2006 (Annexure R/2) submitted by the applicant for appointment on compassionate grounds, the family of the deceased government servant comprises his widow (51 years) and two adult sons aged 21 and 18 years respectively. After the demise of Shri Ramulal Jonwal, SI Grade III, his widow received Rs.515174/- as terminal benefits and she is getting a monthly pension of Rs.5213/- (pre-revised). As spouse of the deceased Government servant, she is also entitled for medical facilities, as available under CGHS and CS (MA) Rules. The family reportedly also owns a residential plot of 200 sq. yards at Giriraj Vihar, Tonk Road, Jaipur. The value of plot was declared as 3 lac as on 07.09.2006. Therefore, it was not found a case of financial destitute or emergency.

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5. That the applicant's case was considered several times. Firstly, it was considered in the office of ORGI on 23.10.2006 and referred to review committee for decision. His case was subsequently placed before the review committee alongwith other cases in the meeting held on 18.05.2007, 14.07.2008 and 21.11.2008. It was again considered on 07.01.2009 and 09.03.2009 although in terms of DOPT's instructions issued vide OM dated 05.05.2003, the maximum time a person's name can be kept under consideration for offering compassionate appointment is three years only and thereafter, the case is required to be closed but he did not qualify as one of the most deserving candidates.

6. He further argued that 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, minor children and left over service of the deceased employee. Hence in order to ensure that only the families living in indigent condition qualify for compassionate appointment and the available vacancies are not exhausted in accommodating non deserving cases, a cut off limit of 60 merit points has been prescribed for short listing the cases for compassionate appointment scrutinized in terms of weighted

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merit points. The applicant did not meet prescribed benchmark or cut off limit. Therefore, his case was not considered a fit case for grant of appointment on compassionate grounds and the applicant was accordingly informed through the concerned directorate vide letter dated 11.01.2010 (Annexure R/6).

7. Learned counsel for the respondents also referred the order of this Bench in OA No. 544/2010 decided on 10.05.2012 (**Akilesh Kumar vs. Union of India & Others**) where a similar controversy has been settled. He argued that the ratio decided by this Tribunal is applicable under the facts & circumstances of the present case. Therefore, this OA has no merit and it should be dismissed with costs.

8. Having heard the rival submissions and after careful perusal of the documents on record and the legal position on the subject, I am of the opinion that the applicant has failed to make out any case for the interference of this Tribunal. It is not disputed that the father of the applicant was an employee of the respondents. That the applicant applied for appointment on compassionate grounds. According to the respondents, the case of the applicant was considered by the Reviewing Committee alongwith other cases in the meeting held on 18.05.2007, 14.07.2008, 21.11.2008, 07.01.2009 and 09.03.2009 but he did not qualify as one of the most deserving candidates. Subsequently in terms of DOPT instructions issued vide 05.05.2003, where a maximum

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time that a person's name can be kept under consideration for offering compassionate appointment is three years and thereafter his case will be closed. Thus, it is clear from the submissions made on behalf of the respondents that the applicant was duly considered on five occasions but he did not qualify as one of the most deserving candidates. Thus the action of the respondents is in accordance with the policy laid down by the Government of India and there is no infirmity/illegality in the action of the respondents in this regard.

9. The Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal vs. State of Haryana**, JT 1994 (3) SC 525, in Para No. 6 has held as under:-

"6.the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it facts at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

10. The Hon'ble Supreme Court in the case of **Haryana Electricity Board vs. Naresh Tanwar**, JT 1996 (2) SC 542, in paras nos. 9 & 10 has held as under:-

"9. It has been indicted in the decision of Umesh Kumar Nagpal (supra) that compassionate appointment cannot be granted after a long 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

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the immediate financial problem being suffered by the members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad's case, it has been also indicated that the very object of appointment of dependent of deceased employee who died in harness is to relieve 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. It appears to us that the principle of compassionate appointment as indicated in the aforesaid decisions of this Court, is not only reasonable but consistent with the principle of employment in government and public sector. The impugned decision of the High Court therefore can not be sustained."

11. The Hon'ble Supreme Court in another case in the case of **M/s Eastern Coalfields Ltd. s. Anil Badyakar & Others, JT 2009(6) SC 624**, in Para No. 19 has held as under:-

"19. The principles indicated above would give a clear indication that the compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over."

The ratio laid down by the Hon'ble Supreme Court in the cases referred to above is squarely applicable to the facts & circumstances of the present OA.

12. Similarly the ratio laid down by this Tribunal in OA No. 544/2010 decided on 10.05.2012 (**Akilesh Kumar vs. Union of India & Others**) is also applicable in the facts & circumstances of the present case.

13. The case of the applicant was considered by the Reviewing Committee alongwith other cases in the meeting held on 18.05.2007, 14.07.2008, 21.11.2008, 07.01.2009 and 09.03.2009 but he did not qualify as one of the most deserving candidates after assessment of the financial condition of the family. The family of the deceased employee has been able to maintain itself since 2006. The compassionate appointment is not a vested right which can be exercised at any time in future. As per the DOPT guidelines, the appointment on compassionate grounds cannot be offered after a lapse of three years. Thus looking from any angle, I am of the view that the applicant is not entitled for appointment on compassionate grounds.

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

15. In view of the order passed in the OA, no order is required to be passed in MA No. 44/2011, which is accordingly disposed of.

Anil Kumar
(Anil Kumar)
Member (A)

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