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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

OA.No.060/00672/2014

**Date of Decision: 15.5.2015
Reserved on : 12.05.2015**

CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

Amit S/o Sh. Kulbir Singh, aged 22 years, R/o House No.1354/14, Sanial Mohalla, Hansi, Haryana-125033.

.....**Applicant**

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief Engineer, Headquarter, Jaipur Zone, Pin-900337, C/o 56 APO.
3. The Commander Works Engineer Headquarters, Pin-900383, C/o 56 APO.

.....**Respondents**

Present: Mr. D.R.Sharma, counsel for the applicant

Mr. Ram Lal Gupta / Mr. Namit Kumar, counsel for the respondents

ORDER

By Hon'ble Mrs. Rajwant Sandhu, Member(A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"i) The impugned orders dated 24.01.2014 (Annexure A-1), 28.01.2014 (Annexure A-2) and 24.01.2013 (Annexure A-3) are liable to be quashed and set aside.

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- ii) The respondents be directed to consider the case of the applicant for compassionate appointment afresh ignoring three years time limit, taking into account the financial condition of the family. It be further declared that the applicant is entitled to 83 points instead of 78 points as per Annexure A-17.
- iii) The action of the respondents in applying three year time limit in considering the case of the applicant for compassionate appointment be declared arbitrary and illegal in the light of DoPT OM dated 26.07.2012."

2. Averment has been made in the OA that the father of the applicant who was serving in the respondent Department as Mazdoor expired on 23.05.2008 leaving behind his widow and unmarried daughter and two unmarried sons. After the death of the father of the applicant his CGEIS of Rs.23,744, GPF amounting Rs.69,833 DCRG of Rs.1,65,774 and leave encashment of Rs.50,522 was released to the family. Initially the mother of the applicant applied for appointment on compassionate grounds vide application dated 31.12.2008. Vide speaking order dated 12.03.2010 and 25.05.2010 her case was rejected on the ground that vacancies in the 5% quota for appointment on compassionate grounds were not available (Annexure A-8 and A-9). Thereafter, the applicant submitted an application to respondent no.2 requesting for appointment on compassionate grounds for the post of LDC / SK II / Peon. However,

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his application was also rejected on 24.01.2013 conveying that due to low merit his case had been finally closed. Hence this OA.

3. In the grounds for relief, it has been stated as follows:-

- i) The OM dated 05.05.2003 in which three year limit has been prescribed stands withdrawn by the Govt. of India vide OM dated 26.07.2012. Therefore, the contention of the respondents that the case of the applicant has been considered for three years and stand closed is not tenable. Thus, the impugned orders dated 24.01.2014, 28.01.2014 and 24.01.2013 are violative of Article 14 and 16 of the Constitution of India and are liable to be quashed and set aside.
- ii) The object of the compassionate appointment policy is to grant the financial support to the family of the deceased, while passing the impugned orders, the respondents have not considered the financial condition of the deceased employee, therefore, the impugned orders are liable to be quashed and set aside.
- iii) Once the respondents have considered the case of Sh. Khem Singh, Sh. Amit Kumar, who have secured 83 and 81 points respectively, the action of the respondents rejecting the case of the applicant who is entitled to 83 points is illegal and arbitrary and is liable to be quashed and set aside.

4. In the written statement filed on behalf of the respondents, it has been stated that the mother of the applicant was earlier considered without availability of vacancy and she was issued speaking order of rejection vide letter dated 12.03.2010 (Annexure A-8), letter dated 25.05.2010 (Annexure A-9), letter dated 12.02.2011 (Annexure A-11),

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letter dated 24.05.2011 (Annexure A-12), but subsequently E-in-C's Branch vide letter dated 30.11.2011 (Annexure R-3) clarified that cases for compassionate ground appointment will be considered only when vacancies are released. When the applicant applied afresh in lieu of his mother Smt. Saroj Bala, he was considered against existing vacancies for the recruitment year 2009-10, 2010-11 and 2011-12. He was issued three speaking orders by HQ CE, Jaipur Zone as under:-

- (a) 1st look - 15010/Gen/Vol-II/2590/EIB(R) dated 22.12.2012 (Annexure R-4).
- (b) 2nd look - 15010/Gen/Vol-II/2619/EIB(R) dated 29.12.2012 (Annexure R-5).
- (c) 3rd look - 15010/Gen/Vol.II/2662/EIB(R), dated 24.01.2013 (Annexure R-6)."

The applicant was low in merit and he was considered for sufficient number of times (three) against the vacancies. His case for compassionate ground appointment was thus finally rejected.

5. It has further been stated that the Government of India policy on compassionate ground appointment stands modified vide GOI DOP&T OM letter No.14014/02/2012-Estt(D), dated 16.01.2013 (Annexure R-7). The Board of Officers makes a balanced and objective assessment of the financial condition of the family, taking into consideration financial condition (including assets and liabilities), earning family member, death

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benefits, size of family, ages of children, unmarried daughters and other dependents etc. The applicant cannot be considered eternally till the time his case is barred by the age limit. With no limit laid down for time and chances, number of applicants for compassionate ground appointment will keep increasing with each year passing by. While the vacancies remain limited to 5% of Director Recruitment quota, increase in number of applicants will not help all of them. Para 32 of FAQ circulated vide DOP&T No.14014/02/2012-Estt (D) dated 13.05.2013 (Annexure R-1) lays down the criteria for considering eligibility of a person for compassionate ground appointment, which is as under:-

- "(aa) The family is indigent and deserves immediate assistance for relief from financial destitution; and
- (ab) The applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

The onus for examining the penurious condition of the dependent family rests with authority making compassionate appointment. Courts have clearly stated in various judgments that offering compassionate appointment as a matter of course, irrespective of the financial condition of the family of the deceased or medically retired Government servant, is untenable.

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6. Arguments advanced by the learned counsel for the parties were heard, when learned counsel for the applicant pressed that the applicant's case for appointment on compassionate grounds could not be closed merely because it had been considered three times as the instructions regarding three time consideration had been quashed by the Allahabad High Court and were subsequently withdrawn by the DoP&T, Government of India.

7. Written arguments submitted by Sh. Namit Kumar, learned counsel for the respondents have been taken on record wherein the content of the written statement has been reiterated.

8. I have given my careful consideration to the matter. From the material on record, it is evident that initially the claim of the widow of the deceased employee was considered for appointment on compassionate grounds but in the absence of vacancies no head way was made in the matter. Later when revised instructions were received by the respondent Department, the claim of the applicant was considered and detailed orders were passed on 22.12.2012 (Speaking Order 1st look), 29.12.2012 (Speaking Order 2nd look) and thereafter on 24.01.2013 finally (Speaking

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