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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/01040/2014

Decided on : 20.08.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Pardeep Kumar, son of late Sh. Sadi Ram, resident of House No.187,
Village Machhonda, Post Office Kuldip Nagar, Ambala Cantt., District
Ambala.

Applicant

Versus

1. Union of India, through Ministry of Defence, New Delhi.
2. The Director General of Supplies & Transport, Quartermaster
General's Branch, Integrated HQ of MoD (Army), Sena Bhawan,
New Delhi-110105.
3. HQ Western Command (ST), PIN 908543, C/o 56 APO.
4. 448 Coy ASC (Pet), PIN 905448, C/o 56 APO.

Respondents

Present: Mr. R.K. Garg, counsel for the applicant
Mr. Ram Lal Gupta, counsel for the respondents

ORDER
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:-

"8 (1) directions be issued to the respondents to grant a suitable job
/ appointment in any group to the applicant on compassionate
basis / grounds.

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(2) letter / order dated 02.12.2013 (Annexure A-2), letter / order dated 30.04.2014 (Annexure A-3) and reply of legal notice dated 05.08.2014 (Annexure A-5), issued by the answering respondents to the applicant vide which grant of appointment on compassionate grounds has been illegally denied by the respondents be set aside."

2. Averment has been made in the OA that the father of the applicant was working with respondent no.4 as Permanent Industrial Labour since 1978 and had completed nearly 29 years of service when he suddenly expired on 29.04.2008. He left behind his widow, two sons and two daughters, all unmarried, at the time of his death. The applicant being the eldest son of the deceased employee applied for a job on compassionate grounds and his request was registered by the Department at seniority no.1589. However, the applicant was shocked to receive a communication dated 02.12.2013 (Annexure A-2) from the respondent Department stating that his case for appointment on compassionate grounds had been considered by the Board of Officers held for the year 2012-13 on 04.04.2013 and based on 100 points scale along with other applicants on merit. The applicant had secured 65 points, his name figured at sl.no.35, but could not be recommended for compassionate appointment being low in merit. The applicant then sought clarification from the Department regarding the reasons for his rejection and he learnt that his case was not considered as per instructions 'a married son cannot be considered as dependent on a Govt. servant'. The applicant then issued legal notice dated 21.07.2014 praying therein to be granted

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appointment on compassionate basis (Annexure A-4 and he had received reply rejecting his claim vide Annexure A-5 dated 05.08.2014. Hence this OA.

3. In the written statement filed on behalf of the respondents, it has been stated that as per DOPT's instructions and decision of the Apex Court consideration of the candidates for compassionate appointment is required to be carried out taking into account their economic condition. For this purpose, a 100 point system has been prescribed by the Ministry of Defence, vide their letters no.19(3)/2009/D (Lab) dated 22.01.2010 and dated 14.05.2010, to ensure objective assessment of all applications in a fair and transparent manner. Under these letters, various points are awarded keeping in view Family Pension, Terminal Benefits, Monthly Income of earning member (s) and income from Movable / Immovable Property, Number of Dependents, Number of Unmarried Daughters, Number of Minor Children and Left over service. In this connection, copies of Ministry of Defence letters dated 22.01.2010 and 14.05.2010 ibid are annexed as Annexure R-1 (Colly.). As per DoP&T's instructions, contained in para 8 of their OM no.14014/6/94-Estt.(D) dated 09.10.1998, relating to consideration of belated requests for compassionate appointments, it has been provided that Ministries / Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long

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back, say five years or so. While considering such belated requests, it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Govt. servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection and the decision to appointment on compassionate grounds in such cases is required to be taken only at the level of the Secretary of the concerned Ministry. The powers of the Secretary, Ministry of Defence have since been delegated to the Adjutant General to decide such cases in respect of Group 'C' and 'D' posts in the lower formations of the Army (excluding Military Engineer Services).

4. It is further stated that DoP&T has further issued Answers to Frequently Asked Questions (FAQs) vide their OM no.1404102/2012-Estt.(D), dated 30.05.2013. As per Answer to Question 13 of these FAQs, a married son is not considered dependent on a Govt. servant. In this connection, a coy of DoP&T OM dated 30.05.2013 is annexed as Annexure R-3. The case of the applicant for compassionate appointment was considered by the Board of Officers held on 04.04.2013, based on 100 points scale, along with other applicants, on merit against 5% quota

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vacancies occurred during the year 2012-13. The applicant secured 65 points in the Board and his name figured at sl.no.35 in the merit list prepared by the Board. Due to lesser number of vacancies becoming available in compassionate appointment quota during the year, his case had to be rejected and this fact was duly intimated to him on 02.12.2013. The case of the applicant for compassionate appointment against compassionate appointment quota vacancies for the subsequent year 2013-14 could not be considered in view of the specific instructions issued by DoP&T on 30.05.2013 regarding married sons.

5. Arguments advanced by the learned counsel for the parties were heard when they reiterated the content of the OA and the written statement respectively.

6. We have given our careful consideration to the matter. It is observed that the DoP&T has recently withdrawn its advice that married sons cannot be considered as dependents of deceased employees. Hence, a married son like any other son of a deceased employee is eligible to be considered for appointment on compassionate grounds, keeping in view also the pronouncements of the Hon'ble High Court in "Satgur Singh Vs. State of Punjab", reported 2013 (3) SCT 629. Hence, the O.A is allowed and the respondents are directed to consider the claim of the applicant on merit for appointment on compassionate grounds and

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without considering the factum of his being being a married son of the deceased employee. Such consideration may be effected at the next meeting of the Board of Officers constituted by the respondents to consider the cases of applicants for appointment on compassionate grounds.

7. No costs.



(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER



(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 20.08.2015

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