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

O.A.No.060/00918/2014 &
M.A.No.060/01337/2014

Date of Decision : 9.10.2015
Reserved on: 07.10.2015

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

1. Vikram, s/o late Shri Ganesh Kumar, aged 28 years, Ex-Mess Waiter, r/o House No.295, Dera Batti, B.C. Bazar, Ambala Cantt. District Ambala.
2. Asha, w/o late Sh. Ganesh Kumar, aged 53 years, 295, Dera Batti, Ambala Cantt.

Applicants

Versus

1. The Union of India through the Secretary to Govt. of India, Ministry of Defence, New Delhi.
2. The Air Officer-in-Charge Personnel, Air Headquarters, Dte of PC/PC-5, Vayu Bhawan, New Delhi-110106.
3. The Air Officer Commanding, Air Force Station, Ambala Cantt. District Ambala (Haryana).

Respondents

Present: None for the applicants
Mr. Sanjay Goyal, 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 direction to the respondents for appointment on compassionate grounds as Peon, Waiter or any other Class IV post under the category of SC.

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2. MA No.060/01337/2014 has been filed under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 188 days from the first representation though case is still undecided and pending.

3. Averment has been made in the OA that the father of the applicant one Sh. Ganesh Kumar died on 11.04.2011 while in service. He was working as Waiter in the Air Force Mess at Ambala Cantt and was a regular Class IV employee under the respondents. The applicant who is a Graduate and belongs to the SC category applied for appointment on compassionate grounds and on 10.01.2015, the complete case of the applicant along with original documents was sent to the competent authority at New Delhi (Annexure A-6). However, on 31.05.2012, the respondents informed the applicant that there were a large number of candidates for appointment on compassionate grounds and his name was not in the merit in the first round and others were given appointment. However, his name would be considered two more times (Annexure A-7). It has been alleged in the OA that the respondents adopted a pick and choose policy and made appointments of persons where deceased employee had passed away many years ago, although appointments on compassionate grounds are not to be considered beyond three years. More over the applicants were living in penury and applicant no.1 was in real need of employment. Hence, this OA.

4. In the written statement filed on behalf of the respondents, it has been stated that the applicant Sh. Vikram had applied for appointment for a

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Group C'(Grade Pay of Rs.1900) post on compassionate grounds on 04.01.2012, following death of the applicant's father Sh. Ganesh Kumar, Ex-Mess Waiter on 11.04.2011. The application was received in Air Headquarters on 03.02.2012 through HQ Western Air Command vide their letter no.WAC/3739/1/7W/PC, dated 31.01.2012. Till 2010, the applications for compassionate appointment were being considered on quarterly basis. The candidates, whose cases could not come up in merit for selection within the available number of vacancies in the initial consideration, were given two more considerations in the next Quarterly Boards. The request of the applicant was initially examined by the competent authority at this Headquarters as per the prevailing Govt. instructions, policy and Hon'ble Supreme Court rulings on the subject. His case was considered along with 29 other applications received for the Quarter ending March 2012 by the Screening Committee Meeting held on 03.05.2012, to select the candidates for filling the 02 available vacancies under the scheme of Compassionate Appointment. The applicant was awarded '56' merit points as per the guidelines prescribed in Annexure R-4 and R-5, whereas the merit points secured by the selected candidates ranged from '69' to '72' and hence, the applicant could not be selected for appointment. Accordingly, the outcome was intimated to the applicant vide Air Headquarters letter no.Air HQ/23039/293/I/PC-5, dated 31.05.2012 (Annexure R-6). The applicant's application for compassionate appointment was again considered along with 76 other applications in the Annual Board held for the year 2012-13. Again, as per the prescribed guidelines the applicant was awarded '56' marks, whereas the merit points secured by the

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selected candidates ranged from '68' to '89' marks. The outcome of the same was also intimated to the applicant vide a detailed speaking order issued vide Air Hqrs letter no.AIR HQ/23039/293/2012-13/PC-5, dated 07.06.2013 (Annexure R-7).

5. It is further stated that in Organizations under the Ministry of Defence as per Ministry of Defence order F.No.19(3/2009)/D (Lab), dated 14.05.2010 (Annexure R-5), the merit of the cases for compassionate appointment are assessed by allotting points on a hundred point scale in respect of specified parameters such as family pension, terminal benefits, market value of immovable / movable property, income from property / other sources, number of dependents, unmarried daughters, minor children and left over service at the time of death of the Govt. servant. Now as per latest instructions issued by DoPT vide para 8 of their OM dated 16.01.2013 (Annexure R-2), any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case, subject to availability of a vacancy and instructions on the subject issued from time to time. In the light of these instructions, if an applicant is still in penurious condition, he / she may apply afresh in the prescribed proforma along with revised immovable property certificate and other relevant information as on date indicating changed circumstances, if any, through the last unit in which the late Government servant served.

6. No rejoinder has been filed in the matter.

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7. When the matter came up for hearing arguments on 07.10.2015, it was noted that the applicant had not been represented on 19.08.2015, 09.09.2015, 06.10.2015 and this was again the position. Hence, Rule 15 of the CAT (Procedure) Rules, 1987 was invoked and we proceeded to decide the matter.

8. Learned counsel for the respondents stated that the applicant could not be offered appointment on compassionate grounds as he had lesser merit points than the selected persons keeping in view the respondent Department's policy regarding appointments on compassionate grounds. Learned counsel also stated that as per the latest instructions of DoPT, the claim of the applicant for appointment on compassionate grounds would continue to be considered if he submitted his application in this regard since no time limit was now prescribed for consideration of such cases.

9. We have carefully considered the matter. While no relief can be allowed to the applicant regarding the selections already made for appointment on compassionate grounds, since the applicant had lesser merit points than the selected persons, but keeping in view the fact that such applications by claimants for appointment on compassionate grounds shall continue to be considered from year to year, the applicant may submit his fresh application to the respondents seeking such employment and the same shall be considered in accordance with the policy / rules for appointments on compassionate grounds. *As* _____.

10. The OA is disposed of with these observations. MA No. 060/01337/2014 is also disposed of accordingly.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 9-10-2015.

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