

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 08.04.2015

**ORIGINAL APPLICATION NO. 060/00924/2014
Chandigarh, this the 10th day of April, 2015**

...
**CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

...
Suminder Malhotra son of late Shri Vijay Kumar Malhotra, resident of House No. 1616, Sector 13, Urban Estate, Karnal.

...APPLICANT

BY ADVOCATE: SHRI SALIL BALI WITH SHRI AMRINDER VIR SINGH

VERSUS

1. Union of India through Secretary, Ministry of Agriculture, New Delhi.
2. Indian Council of Agricultural Research , Krishi Bhawan, New Delhi through its Director-General.
3. National Dairy Research Institute, Karnal through its Director.
4. Pardip Kumar Mondal, presently posted at National Dairy Research Institute, Kalyani, West Bengal.

...RESPONDENTS

BY ADVOCATE: SHRI R.K. SHARMA

(15)

ORDER**HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-**

This is the fourth round of litigation by the applicant seeking compassionate appointment after the sad demise of his father, late Shri V.K. Malhotra on 25.12.1997. Through the present O.A., the applicant also prays that the order dated 03.04.2014 (Annexure P-17) denying him compassionate appointment be set aside.

2. We have heard the learned counsel for the parties, perused the pleadings and the ruling cited by the respondents' counsel, and given our thoughtful consideration to the matter.

3. Let us first note the law on the subject of compassionate appointment, as summarized by one of us (Hon'ble Ms. Rajwant Sandhu, AM) in the Order dated 13.02.2015 in Ravinder Kumar Vs. National Dairy Research Institute and Anr. (O.A. No. 060/00455/2014):

- "i. Only dependants of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground in Groups 'C' and 'D' post alone. (Umesh Nagpal Vs. State of Haryana, J.T. 1994(3) SC 525).
- ii. The whole object of granting compassionate appointment is to enable the family to tide over the



sudden crisis and to relieve the family of the deceased from financial destitution and to help out to get over the emergency.

- iii. Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased is legally impermissible.
- iv. Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
- v. Compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. A claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. Such a category of employment itself, is an exception to the constitutional provisions contained in Articles 14 and 16 which provide that there can be no discrimination in public employment. The object of compassionate employment is to enable the family of the deceased to overcome the sudden financial crisis it finds itself facing, and not to confer any status upon it (Vide Union of India Vs. Shashank Goswami (2012) 11 SCC 307.)

4. The impugned O.M. dated 03.04.2014 (Annexure P-17) reads as under:

"WHEREAS with reference to his application dated 15.10.2013 for review his compassionate appointment case, **Sh. Suminder Kumar Malhotra S/o Late Sh. V.K. Malhotra**, is hereby informed that the primary objective of scheme for compassionate appointment circulated vide O.M.No.14014/6/94-Estt(D) dated 9.10.1998 is to provide immediate assistance to relieve the dependent family of the deceased Govt. Servant from financial destitution i.e. penurious condition. Subsequently vide DOPT O.M.No.14014/19/2002-Estt.(D) dated 5th May, 2003 a time

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limit of three years was prescribed for considering these cases of compassionate appointment. Thereafter, the issue of three years' time limit has been re-examined by the Govt. in consultation with Ministry of law keeping in view the Hon'ble Allahabad High Court's judgment dated 7.5.2010 in Civil Misc. Writ Petition No. 13102 of 2010 and it has been decided to withdraw the instructions dated 5.5.2003 (three years time limit) vide DOPT's OM. No. 14014/3/2011-Estt.(D) dated 26.7.2012.

It is, therefore, the cases of compassionate appointment those earlier closed in the light of above referred O.M .dated 5.5.2003, are required to be reviewed/re-examined subject to merit of each case in term of instructions of Govt. of India contained in O.M.No.14014/6/94-Estt(D) dated 09.10.1998 of Min. of Personnel, Public Grievances and Pension (Dept. of Personnel & Training), O.M.No.14014/23/99(D) dated 3.12.1999 & O. M. No.14014/02/2012.Estt(D) dated 30th May, 2013, but not merely because the time limit has been waived off. The said instructions states that the request for appointment on compassionate grounds should take into account the position/economic status as well as liabilities left behind by the deceased family and it should recommend for appointment on compassionate grounds only in a really deserving case on need-cum-economic status basis; the Courts have stated in various judgments that offering the compassionate appointment as a matter of course irrespective of financial condition of family of deceased, is untenable & legally impermissible and it is not a vested right which can be exercised at any time.

Accordingly, his case has been considered & reviewed by Compassionate Appointment Committee met on **10-11.03.2014** with the similar cases keeping in view the norms in vogue & assets, liabilities and economic status of deceased family in terms of instructions of Govt. of India referred above and after examining all the facts; need-cum-economic status & assets and liabilities left behind by the deceased and circumstances/merits of the case as informed to the institute by the deceased family, in view of para 3.16.3 of Compassionate Appointments-Chapter 32 (Manual of Establishment and Administration), the Committee has not

found the case of deceased family fit for compassionate appointment and not recommended. It is further added that as per the information provided by the applicant, there is no liability left behind as all the three children (two male & one female) are married & major and Smt. Usha Malhotra wife of deceased is getting family pension to meet her livelihood after the death (25.12.1997) of her husband. The appointment on compassionate grounds is to be given only in cases where it is necessary to tide over the financial emergency that the family may be facing on account of death of breadwinner.

(This issues on the basis of recommendation of Compassionate Appointment Committee duly approved by the Director, NDRI, Karnal.)"

5. During the course of the hearing, when asked, the applicant submitted that he was employed in private sector on a monthly salary of Rs. 9,000/- plus petrol.

6. The facts of the instant case do not show that the applicant is living in penurious condition. The aforesaid O.M. (Annexure P-17) can not be faulted. Therefore, we are of the view that the O.A. does not deserve to succeed. The same is dismissed. No order as to costs.

**(DR. BRAHM A. AGRAWAL)
MEMBER(J)**

**(RAJWANT SANDHU)
MEMBER(A)**

Dated: 10 .04.2015
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