

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00961/2014

**Order Reserved on 17.08.2015
Pronounced on 20.08.2015**

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

...
Heema Gaikwad wife of Late Sh. Romi Gaikwad, Ex-Cook, resident of
House No.2839/2, Sector 47-C, Chandigarh.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. The Chief of Air Staff, Air Head Quarter, Vayu Bhawan, Rafi Marg, New Delhi.
3. The AOC-in-C, Headquarters Maintenance Command, IAF, Vayu Sena Nagar, Nagpur.
4. Air Officer Commanding, 3 BRD Air Force, Chandigarh.
5. Jt. C.D.A. (Air Force), Vayu Sena Nagar, Nagpur.
6. Smt. Rajina D. Philips wife of Late DB Philips, Ex-W-Up, Pass No.318, 9 BRD.
7. Sh. Sandeep Babu, S/o Late Dayaram, Ex-S/Wala, Pass No.2572, 24 ED.
8. Smt. Sarita R. Thakur, Ex-LDC, PA No.39045-R, 25 ED.
9. Sh. Sanjay Singh, S/o Late Shivmoan, Ex-Lascar, Pass No.2629, 24 ED.
10. Smt. Tara Devi wife of Late Dharampal, Ex-Lascar, Pass No.13 BRD/60, 13 BRD.
11. SMT. Manju Devi wife of Late Deviprasad, Ex-S/Wala, KAN/K/1656, AFS Kanpur.
12. Sh. M. Yogesh son of late R. Manohar, Ex-Lascar, Pass No.XY-5233, 23 ED.



... Respondents

Present: Sh. Roopak Bansal, proxy for Ms. Arti Bansal, counsel for the applicant.
Sh. Ram Lal Gupta, counsel for respondents no.1 to 5.
Sh. Anil Kumar Lohchab, counsel for respondents no.7& 9.

ORDER

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

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

- 8"(ii). Setting aside of order/review dated 25.07.2014, whereby the claim of the applicant for Employment Assistance under indigent circumstances have been rejected by the respondent authorities in a wholly illegal and arbitrary manner.
- (iii). Stay the appointment of respondents no. 6 to 12.
- (iv). Order appointment of the applicant under the Employment Assistance under indigent circumstances.
- (v). Quash the Scheme of Employment Assistance under indigent circumstances to the extent it does not take into consideration the education qualification of the candidates.
- (vi). Quash the Scheme of Employment Assistance under indigent circumstances to the extent that it does not take into consideration the delay in making the application by the candidates.
- (vii). Quash the Scheme of Employment Assistance under indigent circumstances to the extent it considers the number of dependents as the basis for selection does not take into consideration the delay in making the application by the candidates."

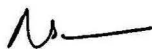
2. Averment has been made in the O.A. that the husband of the applicant, late Sh. Romi Gaikwad, was working as Cook at 3 BRD (Air Force), Chandigarh PA No.41048-F. He had joined the service on 25.02.2002 and at the time of his death, he had served the respondent



Department for about 9 years. Sh. Gaikwad left behind his wife (applicant) and an infant son. Vide application dated 28.03.2012, the applicant applied for employment on compassionate grounds under the Employment Assistance Scheme (Annexure A-1, A-2). However, her claim was rejected by the respondents vide letter dated 09.06.2014 (Annexure A-3).

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

- i. As per settled law the policy to be applied in case of compassionate appointment cases is the policy which is applicable on the date of death. As such the subsequent instructions/clarifications dated 25.07.2013 have no applicability to the case of the applicant whose husband expired on 23.11.2011 and in whose case the application for appointment was submitted on 12.03.2012.
- ii. The object and purpose of granting compassionate employment is to give employment to the dependent of a family on the ultimately death of the bread-winner. As held by the Supreme Court in Umesh Nagpal vs. State of Haryana, 1994 (4) SCC 138 : 1994 AIR SCW 2305 : 1994 (3) SCT 174 (SC) the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis.
- iii. A perusal of appendix 'B' to the Annexure A-3 would show that the applicant who is at serial no.3 in the list, applied on 28.03.2012, but her claim has been considered only on 27.05.2014 i.e. after a period of more than 2 years thereby defeating the very purpose of the scheme of employment.
- iv. A perusal of Appendix 'B' would further show that the candidates selected who got number 1 ranking in the order of the merit applied for compassionate appointment on



27.05.2013 whereas her husband expired on 25.05.2009. In other words the said candidate applied after more than 4 years from the date of death of her husband but still the respondent authorities have not considered the aspect of delay in making application.

- v. A perusal of instructions/FAQs issued by DOP&T dated 30.05.2013 at serial no.26 clarifies that there is no time limit for compassionate appointment and a request for compassionate appointment can be forwarded to next or more years.

4. In the written statement filed on behalf of the respondents it has been stated that initially the applicant applied for Group 'C' post but while scrutinizing her application, it was seen that she was only 10th Pass while for Group 'C' (GP 1900/-) posts, as per revised Recruitment Rules, minimum educational qualification is 10+2 or equivalent. Hence the matter was returned to HQ MC, IAF vide letter dated 05.08.2013 (Annexure R-11). Later on the applicant applied for Group 'D' post vide her application dated 05.09.2013 (Annexure R-12). The applicant's claim for appointment on compassionate grounds was considered along with other cases but she could not come within the merit for selection keeping in view the limited number of vacancies. It is further stated that the IAF was following procedure of making appointment on compassionate grounds by conducting three consecutive quarterly Board of Officers (BOOs). DOP&T vide O.M. No.14014/23/2002-Estt.(D) dated 05.05.2003 and the maximum time limit for making compassionate appointment was three years. As per Air

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HQ/23039/293/Policy/PC-5 dated 21.05.2012 and in the light of above mentioned OM, various court judgments and demand raised by various JCM Councils, competent authority (i.e. AOP) decided to discontinue the practice of conducting quarterly BOOs and has accorded approval to introduce Annual BOOs for appointment on compassionate grounds in IAF. The revised procedure came into force with effect from 01.04.2012.

5. In the replication filed on behalf of the applicant the contents of the O.A. have been reiterated and it has been stated that the respondents have not considered the applicant for Group C post for which she was eligible being 10th pass as per earlier rules and applicant can be given time to get the necessary qualification and should have been given some consideration in this regard.

6. Arguments advanced by learned counsel for the parties were heard when they reiterated the content of the O.A., rejoinder and the written statement respectively.

7. We have given our thoughtful consideration to the matter. From the content of the DOP&T letter No.14014/02/2012-Estt.(D) dated 30th May 2013 regarding Frequently Asked Questions (FAQs) on Compassionate Appointment (Annexure A-1), it appears that

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item no.26, 35 and 36 are relevant to the case of the applicant. These read as follows:

Sr. No.	Question	Answer
26.	If compassionate appointment cannot be given in a year, can it be considered in the next recruitment year?	Yes. There is no limit for compassionate appointment. A request for compassionate appointment can be carry forward to next or more years, but the total compassionate appointment made in a year should not exceed 5% limit of the direct recruitment Group C quota.
35.	Whether a person who does not fulfill education qualification of a post can be appointed on compassionate ground?	Yes. A person who does not fulfill educational qualification of a post can be appointed as "Trainee" (DOPT OM No.14014/02/2012-Estt.(D) dated 11.02.2009 and 03.04.2012.
36.	Whether Government Department can appoint a widow who does not fulfill educational qualification requirement of a post?	Yes. In case of widow who does not fulfill educational requirement of a post is considered for compassionate appointment, she can be appointed only against a multi-tasking staff post provided the appointing authority is satisfied that she can satisfactorily perform duties of the post with the help of some on job training.

Since the applicant has been considered only once, she being the widow of the deceased employee is entitled for consideration time and again as there is no time limit for compassionate appointment and the request for such appointment can be forwarded to the next and subsequent years. Besides, since the applicant does not fulfill educational qualification of the post that requires 10+2, she could be appointed as Multi Tasking

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Staff. Hence the O.A. is disposed of with direction to the respondent Department to continue considering the claim of the applicant for appointment on compassionate grounds on yearly basis till she is able to get the appointment. This is necessary keeping in view the fact that the applicant is a young person with an infant son to support and she has no assets of her own. No costs.

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

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 20.8.2015.

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