

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
O.A. No.060/00455/14

(Reserved on 11.02.2015)

Chandigarh, this the 13th day of February, 2015

Ravinder Kumar son of late Shri Munna Ram, resident of Village and Post Office, Buana Lakhu, Tehsil Israna, District Panipat (Haryana).

.....Applicant

BY ADVOCATE: **SH. RAJBIR SINGH**

VERSUS

1. National Dairy Research Institute (I.C.A.R.), Karnal (Haryana) through its Director, Haryana-132001.
2. Senior Administration Officer, National Dairy Research Institute (I.C.A.R.), Karnal, Haryana- 132001.

...RESPONDENTS

BY ADVOCATE: **SH. R.K. SHARMA**

ORDER

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

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking quashing of the order

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dated 19.04.2014 (Annexure A-3) vide which the Committee on Compassionate Appointments held that the case of the applicant was not found fit for such appointment and had not recommended the case of the applicant for appointment on compassionate grounds.

2. It has been stated in the OA that the father of the applicant, one Sh. Munna Ram, was posted as Attendant (T) Grade I (Chowkidar) and he expired on 25.9.1997 while in service. The applicant being the son of the deceased employee, applied for appointment on compassionate grounds, but, he did not get such appointment till September, 2013 when he received OM dated 7.9.2013 directing him to furnish the affidavit and revised proforma regarding claim for appointment on compassionate grounds. The applicant submitted the details as per proforma vide copy at Annexure A-2. However, the applicant received letter dated 19.4.2014 (Annexure P-3) rejecting the case of the applicant for appointment on compassionate grounds. Hence this OA.

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

- (i) The family of the applicant is in penury and there is no other source of income of the family and if the applicant was not given appointment on compassionate grounds, they will not be able to survive for long.
- (ii) The respondents are required to maintain a seniority list of the dependents of deceased government employees and appointment on compassionate grounds has to be given as per the seniority of the dependents. In the present case, the respondents have adopted a pick and choose method and given appointment to the dependents of the deceased employees who have expired after the death of the father of the applicant.

4. In the written statement filed on behalf of the respondents, it has been stated that Sh. Munna, father of the applicant expired on 25.09.1997 and the deceased family had submitted application in the prescribed format for compassionate appointment on 05.01.2000. The case of deceased family/applicant was placed before the Compassionate Appointment Committee (CAC) that met on 12.9.2001, but no recommendation was given by the CAC due to non-availability of vacancy under 5% quota meant for compassionate appointment keeping in view the instructions contained in OM dated 3.12.1999

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(Annexure R-1). Resultantly, the case of the applicant was kept on waiting list and it remained on waiting list for consideration for want of vacancy under 5% quota. His name was also sponsored to all ICAR Institutes with similar cases vide letter No. 2-43/03-2623 dated 13th May, 2004 (Annexure R-2), but no fruitful response was received.

5. The case of the applicant was re-examined/reconsidered by the Compassionate Appointment Committee on 23.03.2006 alongwith similar cases (which had crossed three years duration) and case was finally declared closed keeping in view the three years limit for compassionate appointment contained in the OM dated 05.05.2003. The instructions dated 05.05.2003 (three years limit) were withdrawn vide DOPT's OM No. 14014/3/2011-Estt.(D) dated 26.07.2012. Hence, the case of the applicant was re-considered and reviewed by the Compassionate Appointment Committee that met on 10-11.03.2014 with the similar cases keeping in view the norms in vogue and assets, liabilities and economic status of deceased family in terms of the instructions of the Government of India and

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after examining the matter in detail the Committee did not find the case of deceased family fit for compassionate appointment and the same was not recommended. It is further stated that as per information provided by the applicant, there is no liability left as seven children (six female and one male) are married and major and only applicant is unmarried, but he is major and Smt. Rajwanti, wife of the deceased is getting family pension after the death of her husband on 25.09.1997. 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. The applicant was advised accordingly vide letter OM No. F. 2-43/2014/NDRI/E.IV(S)34 dated 19.4.2014 (Annexure A-1), while rejecting the case of the applicant.

6. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant pressed that the mother of the applicant was getting family pension, but apart from this, the family did not have any income and hence, they were living in penury. He stated that the deceased

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employee had left behind eight children. Of the six daughters, five were married and one was still single. The applicant who was the elder son, aged 33 years, was 10th pass and was married. The second son of the deceased employee was aged 23 years and he was undergoing training in ITI. Learned counsel also cited the following judgements to buttress his claim for appointment on compassionate grounds:-

- (i) Dhanjit Bayan Vs. UOI & Ors., 2006(1) SLJ 188 CAT
- (ii) Sudhir Kumar Vs. UOI & Ors., 2013(9) ADJ 468
- (iii) Shashi Kumar alias Shashi Kumar Beldar Vs. Bharat Coking Coal Ltd. & Ors., 2014(1) JLJR 587
- (iv) Union of India & Ors. Vs. Smt. Meena Devi, 2014LIC 3459

7. Learned counsel for the respondents stated that seventeen years had passed since the death of the father of the applicant and the family had been sustaining itself since then. As the case of the applicant for appointment on compassionate grounds could not be considered earlier due to lack of vacancies and the 2003 instructions that had prescribed that cases where appointment on compassionate grounds could not be provided within three years of the death of the employee be closed, the case of the applicant had been reopened in view of the OM of

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2012 whereby the OM of 2003 was withdrawn and the case of the applicant was considered alongwith all other such pending cases. The Committee on Compassionate Appointments found that all the sisters of the applicant were married, the mother was getting family pension and the family was living in its own residential house. Hence, the case of the applicant for appointment on compassionate grounds could not be considered as there were more deserving cases that were recommended for appointment on compassionate grounds.

8. I have carefully considered the pleadings of the parties and arguments advanced by the learned counsel. While it is true that the applicant's family may have faced a very difficult situation at the time of the death of the father of the applicant in 1997 due to the large family size, but over the years, the daughters as well as the applicant have married. Only one son of the deceased employee who is 23 years of age is reported to be undergoing training at ITI. Hence, the family appears to have got over the financial emergency of 1997. Law on the subject of compassionate appointment has come up for consideration

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before the Hon'ble Supreme Court in catena of cases and the same can be broadly summarized as follows:-

- 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).

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9. Keeping in view the above discussion and the present circumstances of the family, and the fact that 17 years have elapsed since the demise of the ex-employee, the applicant has no case to challenge the decision of the Committee on Compassionate Appointments conveyed vide letter dated 19.4.2014. The OA is rejected. No costs.

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

Dated: February 13, 2015.

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