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

O.A.No.060/00710/2014

Date of Decision : 29.5.2015.
Reserved on : 28.05.2015

CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER

Amrik Singh, S/o late Sh. Jagjit Singh, presently resident of House
No.2055/1, Sector 47, Chandigarh.

Applicant

Versus

1. Union of India, through Secretary to Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.
2. The Director General, Employees State Insurance Corporation, Panchdeep Bhawan, CIG Marg, New Delhi-02.
3. Regional Director, Employees State Insurance Corporation, Sector 19-A, Madhya Marg, Chandigarh.

Respondents

Present: Sh. Jagdeep Jaswal, counsel for the applicant
Sh. R.K. Sharma, 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 quashing of order dated 13.02.2014 (Annexure A-1), order dated 26.05.2014 (Annexure A-2) and order dated 18.07.2014 (Annexure A-2/A) and direction to the respondents to consider and appoint the applicant on compassionate grounds in accordance with the law and policy. *u* —

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2. Averment has been made in the OA that the father of the applicant, one Sh. Jagjit Singh, was working in the respondent Department as Assistant and he had expired while in service on 20.01.2004 leaving behind his widow and the applicant. The applicant applied for compassionate appointment through various representations (Annexure A-3 Colly.) but did not get any response in the matter. His claim for appointment on compassionate grounds was rejected vide impugned order dated 30.07.2007 (Annexure A-3/A) on the ground that as per Govt. of India's instructions, the maximum permissible period of three years for considering applications for appointment on compassionate grounds had ~~been~~ expired. Besides, due to non-availability of vacancies within the prescribed ceiling of 5% and expiry of 3 years the claim of the applicant is closed.

3. The applicant then filed OA No.1621/CH/2013 which was allowed at the admission stage vide order dated 11.12.2013 (Annexure A-4) while directing the respondents to consider the claim of the applicant without applying the instructions of 05.05.2003. However, the case of the applicant had again been rejected vide impugned order dated 13.02.2014 (Annexure A-1) on the ground that the applicant is a married son of deceased employee and hence was not dependent upon the deceased employee.

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

- i) Admittedly respondents have not considered the claim of the applicant for appointment on compassionate grounds properly and have rejected his claim only on the ground that he is married which is contrary to the law laid down by the Hon'ble Punjab and Haryana High Court in the case of Satgur Singh Vs. State of Punjab, reported 2013 (3) SCT 629.
- ii) The claim of the applicant for appointment on compassionate grounds cannot be rejected on the ground of marriage in as much as according to para 2 note I of Govt. instructions dated 09.10.1998 and consolidated instructions dated 16.01.2013 there is no such condition for considering the case of compassionate appointments. The instructions dated 05.05.2003 had already been quashed by the Hon'ble Allahabad High Court and therefore the instructions were withdrawn by the GOI vide notification dated 26.07.2012. The impugned orders which have been passed on the basis of instructions dated 05.05.2003 therefore require to be reviewed and the claim of the applicant for compassionate appointment required to be considered again from due dates with all consequential benefits.
- iii) On the one hand the respondents have rejected the claim of the applicant for want of vacancies, on the other hand number of individuals have been offered appointment as is admitted in impugned order dated 25.11.2013. No comparison has been made as regards the financial condition of the family of applicant or the individuals who have been offered appointments and thus the denial of compassionate appointment on flimsy grounds cannot be sustained in the eyes of law.

5. In the written statement filed on behalf of the respondents, it has been stated that the father of the applicant Sh. Jagjit Singh was working as Assistant in ESI Corporation, Chandigarh and expired on 20.01.2004 leaving behind his widow Smt. Kuldeep Kaur, three married

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sons including the applicant Sh. Amrik Singh and one married daughter. Smt. Kuldeep Kaur submitted an application for appointment of her son Amrik Singh (applicant), on compassionate grounds on 16.02.2004 (Annexure R-1). In this regard Sh. Chaman Lal, Assistant Director, ESIC was deputed for investigation of this case. In his report dated 28.07.2004 (Annexure R-2), he mentioned that all the three sons and daughter of Sh. Jagjit Singh were married. On the basis of this report the case of Amrik Singh for appointment on compassionate grounds was not found fit for appointment on compassionate grounds. Smt. Kuldeep Kaur was informed accordingly by respondent no.3 vide letter dated 24.08.2004 (Annexure R-3). Further, Smt. Kuldeep Kaur submitted representation dated 24.09.2004 to respondent no.2, which was forwarded by respondent no.3 vide letter dated 14.10.2004 (Annexure R-4). Reply to this letter dated 14.10.2004 was sent by respondent no.3 to respondent no.2 vide letter dated 05.11.2004 (Annexure R-5). Headquarters office conveyed their decision vide letter dated 26.06.2007 (Annexure R-6) that the Committee in its meeting held on 23.03.2007 recommended closure of the case (Annexure R-7).

6. Thereafter the applicant filed OA No.1621/CH/2013 before this Tribunal and this Tribunal disposed of the OA vide order dated 11.12.2013 directing the respondents to reconsider the case of the applicant for compassionate grounds on merits in terms of the prevailing instructions on

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the subject with the direction that such consideration may be effected within a period of two months from the date of a certified copy of the order being served upon the respondents and speaking order may be passed on the application of the applicant Sh. Amrik Singh. As such, his case was placed before the Committee as per Govt. of India instructions, in its meeting held on 2nd and 5th February, 2014. The Committee went through all the facts of the case and finally found that the married son cannot be considered as dependant.

7. Rejoinder has not been filed on behalf of the applicant.

8. Arguments advanced by the learned counsel for the parties were heard, when learned counsel for the applicant pressed that the claim of the applicant for appointment on compassionate grounds had been rejected through the impugned order dated 13.02.2014 on the ground that the applicant is a married son and was not considered eligible for appointment on compassionate grounds and hence the impugned order should be quashed.

9. Learned counsel for the respondents stated that the applicant has in the OA suppressed the fact that his claim for appointment on compassionate grounds was initially rejected vide letter dated 24.08.2004 (Annexure R-3). Learned counsel stated that as per his information, the applicant's family had a flat in a Cooperative Society, the mother of the

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applicant was getting family pension regularly and the family also owned around two acres of agricultural land. The applicant could not be considered to be in indigent circumstances and also since the family had been sustaining themselves since 2004, when the father of the applicant expired, the claim of the applicant for appointment on compassionate grounds could not be considered at this belated stage in 2015.

10. I have carefully considered the pleadings of the parties, material on record and arguments advanced by the learned counsel.

11. Law on the subject of compassionate appointment has come up for consideration before the Hon'ble Supreme Court in a catena of cases and the entire law can be broadly summarized as follows:-

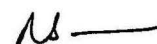
- i) Only dependants of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground in Groups 'C' and 'D' post alone. (Umesh Kumar Nagpal Vs. State of Haryana), J.T. 1994 (3) SC 525.
- ii) The whole object of granting compassionate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

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- v) Appointment on compassionate grounds can be made only, if a vacancy is available for that purpose (Himachal Road Transport Corporation Vs. Dines Kumar) J.T. 1996 (5) SC 319 and (Hindustan Aeronautics Limited Vs. Smt. A. Radhika Thirumalai), J.T. 1996 (9) SC 197.

It is clear from the material on record that initially the claim of the applicant for appointment on compassionate grounds could not be considered due to lack of adequate vacancies under 5% quota. Moreover, the applicant is now around 38 years of age and is maintaining a family as he is married. The mother of the applicant is getting family pension and the family owns some agricultural land. There is no liability of minor children or unmarried daughters. Hence the family cannot be considered to be in penurious circumstances requiring immediate assistance by way of appointment on compassionate grounds. Moreover, the claim for appointment on compassionate grounds 11 years after the ex-employee had passed away is not maintainable in view of Umesh Kumar Nagpal (supra). Hence the OA is rejected. No costs.



(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

Place: Chandigarh
Dated: 29.5.2015.

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