

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A. No.060/00655/14

Pronounced on: 2-9-2015

Reserved on : 01.09.2015

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

Manoj Kumar S/o Late Sh. Mohinder Kumar, R/o H. No. 284, Sani Colony,
Model Town, Karnal.

..... Applicant

BY ADVOCATE: SH. NAVEEN DARYAL

VERSUS

1. Union of India through its Secretary, Ministry of Agriculture Research, Government of India, 12, Tuglaka Road, New Delhi.
2. Deputy Secretary, Union of India, Ministry of Agriculture Research, Govt. of India, Krishi Bhawan, New Delhi.
3. Director, National Dairy Research Institution (ICAR), District Karnal.

..... 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 direction of the Tribunal for quashing the

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impugned order dated 03.04.2014 (Annexure A-16) by which the claim of the applicant for appointment on compassionate grounds had been rejected.

2. Averment has been made in the OA that the father of the applicant one Sh. Mohinder Lal expired on 13.7.1999 while working as a Technician T-II-3 at NDRI, Karnal. He left behind his widow, two sons and a daughter. The applicant applied for appointment on compassionate grounds. His case was recommended and his name was placed at Sr. No. 7 as per the seniority list for compassionate appointment. However, appointment letter was not issued to the applicant as there was a ban on recruitment for some time. The applicant continued to make representations himself and through his mother and finally an order dated 04.09.2008 was issued rejecting the claim of the applicant for appointment on compassionate grounds on the basis of Government of India instructions dated 05.05.2003. The applicant challenged the order dated 04.09.2008 through OA No. 312/HR/2009 before the CAT Chandigarh Bench and the same was dismissed on 03.03.2010. Writ Petition No. 22408/2011 was allowed and the applicant was permitted to file an RA before the Tribunal since he argued before the Hon'ble Court that the

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Tribunal while deciding the matter earlier, did not take into consideration the document Annexure P-6, RTI information which was sought and supplied to one Smt. Kosilaya Devi, which indicated names of four persons who had been appointed on compassionate grounds. The applicant then filed RA No. 76/2012 before the Tribunal which was allowed on 03.10.2013 with directions to the respondents to reconsider the claim of the applicant for appointment on compassionate grounds as the earlier instructions of 05.05.2003 had been set aside by the Hon'ble High Court of Allahabad in CWP No. 13102/2000. The respondent department did consider the claim of the applicant for appointment on compassionate grounds, but rejected the same through the impugned order dated 3.4.2014 (Annexure A-16).

Hence this OA.

3. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It has further been stated that vide OM No. 14014/6/94-Estt (D) dated 09.10.1998, the Scheme of Compassionate Appointment was introduced by the Government of India to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any

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means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

Vide OM No. 14014/02/2012.Estt (D) dated 16/01.2013 consolidated instructions on compassionate appointment were issued (Annexure R-1).

The said instructions stipulate as under:-

- (i) 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 family should be indigent and deserves immediate assistance for relief from financial destitution.
- (ii) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests, it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.

4. It is further stated that the father of the applicant, Sh. Mohinder Lal, died in harness on 13.07.1999 while working as Technician T-II-3 at

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NDRI, Karnal. The applicant being dependent on his father, applied for compassionate appointment which was considered by the Compassionate Appointment Committee on 27.10.1999 and was recommended for appointment. However, due to non-availability of vacancy at that time, the post could not be offered to him. The case of the applicant was reconsidered and reviewed by Compassionate Appointment Committee which met on 10.03.2014 – 11.03.2014 keeping in view the norms in vogue & assets and liabilities and economic status of deceased family in terms of instructions of Government of India referred in OM No. 14014/02/2012-Estt(D) dated 16.01.2013 and 30.05.2013 and resultantly a speaking order was passed rejecting the claim of the applicant. The applicant applied for compassionate appointment 17 years back which cannot be entertained at this stage considering the fact that compassionate appointment is granted to the dependent of a deceased employee immediately after his/her death to help the family to come out of financial trouble. The fact that applicant and his family had been able to survive for more than 17 years itself showed that the family has other means of livelihood. Moreover, as per the information provided by the applicant, there is no liability left behind as all the three children (two male and one

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female) are married and major and Smt. Jagwanti, wife of the deceased is getting family pension. The same has been informed to the applicant while rejecting the case vide office letter dated 03.04.2014 (Annexure A-16). The respondents have cited Umesh Kumar Nagpal Vs. State of Haryana and Ors., JT 1994(3) SC 525 and Civil Appeal No. 2206 of 2006 titled Local Administration Department Vs. M. Selvanayagam @ Kumaravelu decided on 05.04.2011 to press their contention that the claim of the applicant for appointment on compassionate grounds cannot be considered so many years after the death of the ex employee as this is not a matter regarding overcoming a financial emergency.

5. No rejoinder has been filed on behalf of the applicant.
6. Arguments advanced by the learned counsel for the parties were heard when learned counsel reiterated the content of the OA and the written statement respectively.
7. We have given our thoughtful consideration to the matter. From the material on record, it is clear that there is no liability in the family at present as all the children of the deceased employee are married and settled. The widow of the deceased employee is receiving family pension. The applicant himself is now 35 years old and it can be presumed that he

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has been sustaining himself for the last so many years through some employment. Law on the subject of compassionate appointment has come up for consideration before the Hon'ble Supreme Court in 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 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.

Hon'ble Supreme Court in **Union Bank of India & Ors vs. M.T.Latheesh**, 2006 (7) SCC 350 observed as follows:-

“.....It is settled law that the principles regarding compassionate appointment that compassionate appointment being an exception to the general rule the appointment has to be exercised only in warranting situations and circumstances existing in granting appointment and guiding factors should be financial condition of the family.....”

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80. Keeping in view the above cited judgements, the present circumstances of the family, and the fact that 17 years have elapsed since the demise of the ex-employee, the claim of the applicant for appointment on compassionate grounds is without merit and the same is rejected. No costs.

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(RAJWANT SANDHU)
MEMBER(A)

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

Dated: 2-9-2015.
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