

**Open Court**

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH**  
**ALLAHABAD.**

Dated : This the **25<sup>th</sup>** day of **May** 2018

**Original Application No. 330/00062 of 2017**

**Hon'ble Mr. Gokul Chandra Pati, Member (A)**

Kuldeep Savita, S/o Late Ram Pal, R/o House No. 115/345 Near Chintamani School, Shiv Nagar, Maswanpur, Kanpur Nagar.

. . .Applicant

By Adv : Shri Anmol Tiwari

**V E R S U S**

1. Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.
2. General Manager, Field Gun Factory, Kalpi Road, Kanpur U.P.

. . .Respondents

By Adv: Shri Shivaji Singh

**ORDER**

Late Ram Pal, the applicant's father, was an employee in Field Gun Factory, Kanpur, under the respondents and after his death on 7.07.2003, while in service, the applicant applied for appointment on compassionate ground vide his application dated 25.12.2014. When no decision was taken by the respondents on his application, the applicant moved this Tribunal in an OA and vide order dated 26.05.2016 (Annexure A-5) of this Tribunal, the respondents were directed to take a decision on the application dated 25.12.2014. The respondents accordingly passed order dated 15.12.2016 (Annexure-1 to the OA) rejecting the application for compassionate appointment, which has been impugned in this OA, with prayer for following reliefs:-

- "i. To set-aside or upheld the order passed by authority concern in respect of matter of applicant.*
- ii. To direct the respondent No. 2 to appoint the applicant as according to his education or qualification as on compassionate ground under dying harness in place of his deceased father.*

- iii. ***Issue an order or direction commanding this respondent concern to consider the claim of the applicant for appointment on compassionate ground under Dying in Harness Rules in place of his father namely Ram Pal.***
- iv. ***Issue any other order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.***
- v. ***Award cost of the application."***

2. Following main grounds have been mentioned in the OA to contest the impugned order dated 15.12.2016:-

- The respondents failed to consider the application dated 25.12.2014 of the applicant as per the order of this Tribunal.
- As per the rules, every member of the family is entitled for appointment under Dying in Harness rule. The applicant is ready to accept any appointment on any post as per his qualification.
- There is no source of income for livelihood of the family. There is one unmarried sister and ill health of the mother, which have not been considered by the respondents.
- The mother of the applicant had applied for compassionate appointment in 2003, which was considered by the respondents and she was listed at serial no. 4 of the list with weightage of 57 points. But still, she was not given any appointment, after which the applicant moved the application dated 25.12.2014 for his appointment.

3. In Counter Affidavit, the respondents have stated that after death of the applicant's father, the applicant's mother had applied for compassionate appointment on 21.8.2003 (Annexure CA-1) and another application on 10.09.2003 (Annexure CA-2), which were duly considered by the respondents in the year 2004, 2005 and 2006 as per the rules. But her name could not come in the merit list. Accordingly, she was informed vide letter dated 31.07.2007 (Annexure CA-6). It is further mentioned that there was no letter from the applicant's mother to consider the applicant's name for compassionate appointment.

4. In the impugned order dated 15.12.2016, the respondents have mentioned the following grounds while rejecting the case of the applicant:-

- The applicant's mother had applied for compassionate appointment after death of his father. Her case was considered for three years and as she was given merit point of 57 considering the financial condition of the family, she could not be given the appointment as candidates with higher merit were waiting for appointment. The respondents are updating the present condition of the family for considering with current cases.
- Under the scheme, the first right is that of the wife/spouse, who can apply to consider other members of the family. In this case, there was no letter from applicant's mother to consider the case of the applicant. Hence, the applicant cannot be considered under the scheme for compassionate appointment.
- Death of the applicant's father was about 12 years back and the family is managing till date, hence, there is no immediate crisis to justify compassionate appointment.

5. Heard Shri Anmol Tiwari, learned counsel for the applicant and Shri Shivaji Singh, learned counsel for the respondents. Learned counsel for the applicant submitted that the applicant had applied for compassionate appointment after he became major in the year 2014 since at the time of his father's death he was a minor. Prior to that his mother applied for such appointment in the year 2003. The respondents vide letter dated 29.02.2007 (Page 31 to the OA) intimated that her application is under consideration. It was submitted that there was no delay for applying for compassionate appointment. Since the matter was not decided by the respondents, the applicant applied for compassionate appointment in lieu of his mother. It was also submitted that as per chart (Annexure A-4), the applicant's mother was placed at Sl. No. 5 of list with merit point of 57.

6. Learned counsel for the respondents on the other hand argued that the case of the applicant / applicant's mother was duly considered as per rules the candidates having higher merits points were appointed. There was limited number of vacancies to permit appointment to the applicant. He further argued that there is delay of about 11 years from the date of death of the applicant's father when application for compassionate appointment was submitted on 25.12.2014. However, the application was duly considered as per order of this Tribunal in OA No. 702/16 and it was disposed of vide impugned order dated 15.12.2016.

7. Applicant's counsel in reply, mentioned that the respondents have not disclosed in their pleadings the merits points obtained by successful candidates who have been appointment vis-à-vis the applicant.

8. The applicant had earlier filed the OA No.702/2016 which was disposed by this Tribunal by order dated 26.05.2016 (Annexure-5 to the OA) with following observations:-

***“.....Counsel for the applicant drew my attention to page No. 28 wherein it is seen that while considering the case of applicant's mother for grant of compassionate appointment, the secured '57' marks but she was not offered the appointment on compassionate ground. He further submitted that it is not known that while considering her case and after obtaining '57' marks why she was not given the compassionate appointment as no break ups were served upon the mother of applicant showing the comparative chart of the applicant who was considered along with others.....”***

9. From above and from the pleadings in this case, it is clear that the case of the applicant's mother has been already considered by the respondents and she was awarded the merit score of 57 and she could not be selected for appointment as there were other candidates with higher score and this fact was informed to the applicant's mother. This has not been disputed or challenged by the applicant's mother.

10. There no rule or the provision of the guidelines for compassionate ground appointment, which has been furnished or cited by the applicant in

his pleadings to show that after the application for the wife of the deceased employee could not be accepted for compassionate appointment, the application of other family members of the deceased employee, like his son, for appointment on compassionate ground will also have to be considered. Since the case of the applicant's mother has been duly considered for appointment on compassionate ground and she was not appointed by the respondents and such decision has been accepted by the applicant's mother, the respondents cannot be asked to consider the case of the applicant again under the scheme, that too after about 11 years of the death of the applicant's father. The purpose of the scheme for compassionate appointment is to provide immediate relief to the family of the deceased employee if it is facing financial hardship. This has already been considered by the respondents while examining the application of the applicant's mother for compassionate appointment.

11. In view of above, I do not find adequate reasons furnished by the applicant in his pleadings in the case to justify any interference of this Tribunal in the matter. Accordingly, the OA being devoid of merit, is dismissed. No costs.

**(Gokul Chandra Pati)**  
Member (A)

/pc/