

Reserved on 14.08.2018

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

This the **24th** day of **August, 2018.**

PRESENT:

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER- A

ORIGINAL APPLICATION NO. 330/00649/2013

- 1) Smt. Malti Devi, Widow of Late Ram Kishore, R/o Reliance Tower Lane, Sarvodaya Nagar, Shuklaganj, Unnao.
- 2) Manoj Kumar, S/o Late Ram Kishore, R/o Reliance Tower Lane, Sarvodaya Nagar, Shuklaganj, Unnao.

...Applicants

V E R S U S

1. Union of India through Secretary Defence, Govt. of India, Ministry of Defence, Department of Defence Production, South Block, New Delhi – 110 001.
2. The Additional Director General Ordnance Factories, O.E.F. Group Headquarter, G.T. Road, Kanpur Nagar – 208 024.
3. The General Manager, Ordnance Equipment Factory, Kanpur Nagar – 208 001.

.... Respondents

Advocate for Applicants : Shri Rakesh Verma
Advocate for the respondents : Shri V.K. Pandey

O R D E R

By way of the instant O.A. the applicants have prayed for following main reliefs: -

“(i). to issue a writ, order or direction in the nature of Certiorari quashing the impugned orders being the order No. GA/20-DH/089 dated 14.07.2010 and Order No. GA/20-DH/089 dated 18.03.2013, both passed by the Respondent No. 3 i.e. the General Manager, Ordnance Equipment Factory, Kanpur (Annexures A-1 and A-2 respectively to the Compilation No. I to this petition.

(ii). to issue a writ, order or direction in the nature of Mandamus directing the Respondent No. 3 to reconsider the case

for appointment on compassionate ground in favour of the Petition No. 2 namely Manoj Kumar Son of Late Ram Kishore and to appoint him on any suitable post in case he is found fit as per the instructions of Department of Personnel & Training.....”.

2. The facts in brief are that the husband of the applicant no. 1 expired while in service on 15.02.2007. Thereafter, a representation for appointment of her eldest son (applicant no.2) on compassionate ground was moved on 25.5.2007. Vide letter dated 27.10.2007, the respondents informed the merit score of the applicant to be 53, which was modified to 51 vide letter dated 19.4.2010. The claim for compassionate ground appointment (in short CGA) of the applicant no.2 was rejected vide order dated 14.07.2010 (Annexure A-1) which has been impugned in this OA.

3. The following main grounds have been mentioned in the OA:-

- After death of the deceased employee, he left behind four sons and his widow who were dependent on him.
- The gross amount of the retiral dues paid to the family was Rs. 2,48,233, but no amount was paid to the applicants since house building advance was outstanding. The applicants were asked to deposit Rs. 1,02,500 towards the house building advance, for which the family raised personal loan to deposit the amount. Hence, it was wrong to assume that the retiral dues were paid to the applicants and decide the score accordingly. The respondents were requested to correct the score vide letter dated 15.4.2013, but no action was taken.
- For the terminal benefit, the applicant is entitled for a score of 10 instead of 4 allowed by the respondents. Similarly, for movable/immovable property, the applicants are entitled for a score

of 8 since no GPF was paid to them after adjustment. Thus, the applicant would be entitled for a score of 62 in place of 51.

4. The respondents have filed Counter Affidavit (in short CA), stating that the applicant was given the score correctly. The deceased employee had outstanding house building advance totaling Rs. 2,13,314, which was recovered from the retiral dues of the applicants. It is stated in para 16 of the CA that the fact of deposit of Rs. 1,02,500/- by the applicant with the respondents to repay the house building advance is correct. The respondents have stated that they have not forced the applicants to deposit the amount, they had deposited to repay the house building advance. But the fact that the family did not receive the full retiral dues is correct. It is seen that the guidelines of the Ordnance Factory Board based on the instructions of the Ministry of Defence, copy of which is enclosed at Annexure no. 5 to the Counter Affidavit, states that the terminal benefits to the family would be one of the factor to assess the merit point score of the family for compassionate appointment. The guidelines do not specify that the terminal benefit for the assessment would be the amount that is sanctioned. The argument of the counsel for the applicant that the actual benefit that is disbursed to the family after adjustment of the loans has force as the financial condition of the family will depend on the actual amount disbursed as terminal benefit, not the amount that is sanctioned, particularly when the amount is being adjusted for repayment of house building advance. Moreover, the family had to deposit Rs. 1,02,500/- after adjustment of terminal benefits except GPF amount, had actually worsened the financial status of the family. Hence, in the circumstances taking into consideration the spirit of the guidelines of Ordnance Factory Board at Annexure 5 of the CA, I am inclined to accept the argument of

the learned counsel for the applicant that the score on account of terminal benefit should be 10 in place of 4 assigned to him.

5. However, the argument of the learned counsel for the applicant that the score under the head movable/immovable should be 8 in place of 3, is not acceptable since GPF amount disbursed was not adjusted against the house building advance.

6. In view of above, the applicant's case for compassionate appointment deserves to be re-considered in the light of discussions above. The impugned order dated 14.7.2010 rejecting the proposal for compassionate appointment of the applicant on the basis of his score 51 is not sustainable in law.

7. In the circumstances, the impugned order dated 14.7.2010 (Annexure A-1) is set aside and quashed and the matter is remanded to the respondents to re-consider the case of the applicant no. 2 for compassionate appointment as per the rules after revising the score of the merit score of the applicant no. 2 as discussed in para 4 and 5 of this order. This order shall be complied within four months.

8. The OA is allowed partly as above. No costs.

(GOKUL CHANDRA PATI)
MEMBER-A

Anand...