

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 81/2014

Reserved on: 26.04.2017
Pronounced on: 28.04.2017

Hon'ble Mrs. P. Gopinath, Member (A)

Shri Suresh Kumar,
S/o Late Shri Raj Pal,
314, ESI Colony, Basaidarapur,
New Delhi-1100015. ... Applicant

(By Advocates Mr. Sanjay Kumar with Mr. Kripa Shankar
Prasad, Mr. Birendra Bikram and Mr. Krishna Kant
Sharma)

VERSUS

1. Union of India, through
Secretary,
Ministry of Labour and Employment,
Govt. of India, New Delhi.
2. Employees State Insurance Corporation,
ESI Model Hospital,
Basaidarapur, Ring Road,
New Delhi-110015. ... Respondents

(By Advocate: None)

ORDER

The applicant S/o Sh Raj Pal a deceased Safai Karamchari, ESI Hospital, Basaidarapur, Ring Road, New Delhi is seeking employment on compassionate ground. Father of the petitioner expired on 13.11.2009. The applicant argues that he was living with his father and was also dependent upon him. The respondent had appointed the Deputy Director (F) ESI Hospital to verify the financial status of the applicant. The Cultural, Education and Welfare Association ESI Residential Colony, Basaidarapur had also issued a certificate on 22.6.2010 certifying that the financial condition of the family of late

Sh. Raj Pal including the applicant was not good and they were hand to mouth most of the time. Despite making an application on 31.03.2010, nothing has been heard from the respondents on his compassionate appointment.

2. The applicant submits that he fulfils all the criteria for appointment on compassionate ground. Applicant seeks quashing of Annexure A-12 which denies him compassionate appointment on account of the fact that he is married and hence not dependent.

3. The trend of argument in the respondents reply statement is that the applicant is not eligible for compassionate appointment because he was married. The applicant during argument produce a FAQs on compassionate appointment issued by Establishment D Section of the Department of Personnel and Training Under the head "Definition of a Dependent Family Member", question no. 60 reads as follows:

Sl.No.	Question	Answer
60	Whether 'married son' can be considered for compassionate appointment?	<p>Yes, if the otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's O.M. dated 16th January, 2013. This would be effective from the date of issue of this FAQ viz 25th February, 2015 and the cases of compassionate appointment already settled w.r.r. the FAQs dated 30th May, 2013, may not be reopened.</p> <p>Sr.No. 13 of the FAQs dated 30th May, 2013 may be deemed to have been modified to this extent.</p>

The above FAQ very clearly states that FAQ 13 dated 30.05.2013 on which the respondents rely is deemed to have been modified by the

above FAQ. Hence the married son is not a disqualification for compassionate appointment.

4. As per the document produced at page no. 37 of the paper book, the Joint Director (Finance) ESI Hospital, Basaidarapur had submitted a report to the Medical Superintendent regarding the status of compassionate appointment of the applicant. The Joint Director (Finance) submits as follows:-

- "1. Regarding employment of Sh. Suresh Kumar- SH. Suresh Kumar was not employed/doing any kind of job anywhere at the time of the inquiry made which is very well mentioned in the statement of Sh. Murari Lal, Sh. Anil Kumar, Sh. Mukesh Kumar.
- 2. Regarding dependent family members living together- as per the affidavits already enclosed submitted by Saroj Devi (wife of late Sh. Raj Pal), Sh. Kunwar Pal (son,), Sh. Ramesh Kumar (son) and SH. Jai Prakash (son) are living together in from allotted staff quarter no. 396, ESI colony Basaidarapur, New Delhi-15.
- 3. Regarding employment of other dependant family member-Sh. Kunwar Pal, is in employment in AIIMS. The statement of Sh. Kunwar Pal had already been attached with my financial status report dated 2.7.2010.
- 4. They have no other source of income however Sh. Kunwar Pal is in job in AIIMS and as per his statement dated 24.5.2012 he is unable to take any financial care of his mother and other dependants as it is very hard for him to even provide livelihood to his own family comprising of wife and three children."

From the above report of Joint Director (Finance) the applicant is unemployed. The respondents only argument for not giving

compassionate appointment is the fact that applicant is married. Since marriage is not a disqualification as per FAQ 60, the applicant is eligible for compassionate appointment subject to fulfilling all other requirements of the Scheme. The prayer in the OA for appointment of applicant in place of his deceased father is allowed.

**(Mrs. P. Gopinath)
Member (A)**

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