

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2364/2014
MA 1976/2014

New Delhi this the 10th day of September,2015

Hon'ble Shri A.K.Bhardwaj, Member (J)

1. Smt. Pushpa Devi (Aged about 50 years)
Widow of Late (Sh) Sombir Singh
Ex. Postal Asstt. at P.O. Sahadara,
Delhi.

2. Parshant Singh (Aged about 27 years)
S/o Late (Sh) Sombir Singh,
Ex. Postal Asstt. At P.O. Sahadara,
Delhi.
Both residents of Gali No.8,
Near Mata Mandir,
Village Saboli, Delhi-110093

(By Advocate Shri R.C.Gautam)

VERSUS

1. Union of India, through
Director General, Ex-Offices,
Secretary (Posts),
Ministry of Communication & I.T.,
Govt. of India, Dak Bhawan,
Sansad Marg, New Delhi-110001
2. The Post Master General,
Delhi Circle, Meghdoot Bhawan,
Link Road, New Delhi-110001 .. Respondents

ORDER (ORAL)

The prayer made in the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 read thus:-

“8.1. to allow the OA and quash the impugned orders dated 18.5.2012 and 30.01.2014 (Annexure A-1 colly and consequently);

- 8.2. to direct the respondents to consider the applicant's case for appointment on compassionate ground in favour of her son Sh. Parshant Singh (The Applicant No.2) on any post in any ground may be group 'D" of the deptt. and release the same expeditiously say within a reasonable time of one month forthwith; and
- 8.3. to grant any other or further appropriate relief as deemed just and proper by this Hon'ble Tribunal as per facts and circumstances of the case besides cost and expenses of the present litigation."

Mr.R.C.Gautam, learned counsel for applicant submitted that when in terms of OM No. 14014/19/2002-Estt. (D) dated 5.5.2003, the respondents need to consider the applicant No. 2 for compassionate appointment thrice, they have considered him only once. Mr. R.K.Jain, learned counsel for respondents submitted that the DOP&T has issued OM No. 14014/3/2011-Estt.(D) dated 26.07.2012 withdrawing the OM dated 5.5.2003.

The OM read thus:-

"F.No.14014/3/2011-Estt. (D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

Dated 26.7.2012
OFFICE MEMORANDUM

The primary objective of scheme for compassionate appointment circulated vide O.M. No. 14014/6/94-Estt(D) dated 09.10.1998 is to provide immediate assistance to relieve the dependent family of the deceased or medically retired Government servant from financial destitution i.e. penurious condition. The Hon'ble Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment

made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind”.

2. This Department's O.M. No. 14014/ 6 / 1994- Estt. (D) dated 09.10.1998 provided that 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 was, however, to 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 call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases was to be taken only at the level of the Secretary of the Department/ Ministry concerned.

3. Subsequently vide this Department's O.M. No. 14014/19/2002-Estt. (D) dated 5th May, 2003 a time limit of three years time was prescribed for considering cases of compassionate appointment. Keeping in view the Hon'ble High Court Allahabad judgment dated 07.05.2010 in Civil Misc. Writ Petition No. 13102 of 2010, the issue has been re-examined in consultation with Ministry of Law. It has been decided to withdraw the instructions contained in the O.M. dated 05.05.2003.

4. The cases of compassionate appointment may be regulated in terms of instructions issued vide O.M. dated 09.10.1998 as amended from time to time. The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment.”

In the said OM, it has been specifically provided that the cases of compassionate appointment may be regulated in terms of OM dated 09.10.1998 as amended from time to time. Let the respondents examine the entitlement of the applicant for compassionate appointment in terms of the said OM and communicate their decision to him within three months by way of speaking order. It goes without saying that if after the speaking order to be passed by the respondents, the grievance of the applicant still subsists, it would be open to him to work out his claim in accordance with law. No cost.

**(A.K.Bhardwaj)
Member (J)**

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