

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2105/2014
M.A. No. 3901/2015

Wednesday, this the 1st day of June 2016

Hon'ble Mr. P.K. Basu, Member (A)

Sourabh Kumar,
Aged about 46 years,
S/o Late Shri Kishan Lal,
R/o T-890, WZ Block,
Sabzi Mandi, New Delhi.
For appointment to the post of
Peon, Group 'D'.

..Applicant

(By Advocate : Shri Harpreet Singh)

Versus

1. The Secretary, DOP&T,
Ministry of Personnel, Public
Grievances and Pension,
North Block, New Delhi-110001.
2. Union of India,
Through Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.
3. The Establishment Officer,
505, Army Base Workshop,
Delhi Cantt.-110010.Respondents

(By Advocate : Shri Manjeet Singh Reen)

O R D E R (ORAL)

The applicant's father, who was serving under the respondents, expired on 17.10.2012. The applicant moved an

application seeking compassionate appointment on 23.10.2012. He was denied compassionate appointment vide order dated 28.03.2014 on the ground that according to the current rules, a married candidate/son is not eligible for appointment on compassionate ground.

2. Learned counsel for the respondents stated that as per Clarification No.13 of DoPTs instructions dated 30.05.2013 on frequently asked questions on compassionate appointment, a married son is not eligible for compassionate appointment, which reads as follows:

13	Whether 'married son' can be considered for compassionate appointment?	No. A married son is not considered dependent on a government servant.
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3. In reply to this, the learned counsel for the applicant has filed judgment of the Hon'ble High Court of Punjab & Haryana at Chandigarh in the case of **Union of India Vs. Central Administrative Tribunal and Another** in CWP No.16510 of 2015, which has been disposed of vide order dated 12.08.2015. The issue before the Hon'ble High Court was very similar and in that case also, the son was married and in view of DoPT OM dated 30.05.2013, his appointment on compassionate appointment was not recommended. The issue was examined by the Hon'ble High Court in view of the provision of the Scheme as well as the

clarification dated 30.05.2013 and subsequent clarification dated 25.02.2015. What the Hon'ble High Court held was that in the original scheme as noted vide DoPT OM dated 09.10.1998, 'Dependent Family Member' was defined, *inter alia*, as son (including adopted son) who was wholly depending on Govt. servant..... There was no distinction between 'married' and 'unmarried' son. This definition was brought out only vide clarification dated 30.05.2013. However, subsequently vide clarification dated 25.02.2015, this definition was again removed, though the subsequent clarification was made effective from 25.02.2015.

4. The Hon'ble High Court held that clarification given by the department do not amount to the amendment of the original scheme dated 09.10.1998 for compassionate appointment and since the original scheme nowhere mentioned that only 'unmarried son' will fall within the category of the 'dependent family member' and 'married son' shall be excluded, there is no categorisation of married or unmarried son in the scheme. The Hon'ble Court held that subsequent clarifications do not amount to amendment of the original scheme. Finally, the Hon'ble High Court disposed of the matter with the following directions:

"8. The Central Administrative Tribunal has rightly relied upon case **Satgur Singh versus State of Punjab 2013 (3) SCT 629**. In that case also, there was analogous note defining the "Dependent Family Members". In Note I, only son was mentioned

and this Court held that the married son would also be eligible for appointment on compassionate grounds provided he fulfills the other requirements. Case **Krishna Kumari versus State of Haryana** (supra) relied upon by the learned counsel for the petitioners is entirely on different footing because in that case, the question for consideration was as to whether the policy applicable on the date of death of the employee will apply or the one applicable on the date of consideration of application would apply. But in the instant case, it is not the case of the petitioner that some different scheme was applicable on the date of death of the father of respondent No.2. It is the case where only the different clarifications have been issued on the same policy by the Department which does not amount to any amendment in the Original Scheme dated 9.10.1998.

9. Thus, we do not find any illegality in the impugned order dated 9.4.2014 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh."

and the writ filed by the Union of India was dismissed.

5. Heard the learned counsel and perused the pleadings as well as the judgment cited by the learned counsel for the applicant.

6. In view of the judgment of the Hon'ble High Court of Punjab & Haryana at Chandigarh, the matter is settled and no distinction can be made between a married son and unmarried son as regards appointment on compassionate ground. The O.A., therefore, succeeds. The order dated 28.03.2014 is quashed and set aside and the respondents are directed to consider the case of the applicant on compassionate ground, if he is otherwise eligible.

7. Learned counsel for the respondents had also moved MA No. 3901/2015 enclosing therewith an application by the sister of the applicant in this O.A., viz. Ms. Deepika. In this application, Ms. Deepika has also sought compassionate appointment through her

application dated 21.08.2015. However, I am of the view that that application is not relevant to the present O.A. and the respondents may dispose of the application of Ms Deepika as they deem fit, in accordance with rules.

8. The time frame of one month is fixed for the respondents to comply with the aforesaid directions. There shall be no order as to costs.

(P.K. Basu)
Member (A)

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