

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No. 3519/2015

M.A. No. 3152/2015

New Delhi, this the 7<sup>th</sup> day of November, 2016.

**HON'BLE MR. P.K. BASU, MEMBER (A)**

Bhupender Kumar,

Aged 39 years,

Unemployed

S/o Late Shri Daya Chand,

R/o H.No.188, Village Deenpur,

Najafgarh, New Delhi-110043.

.. Applicant

(By Advocate : Shri N.K. Beniwal)

Versus

1. The Commissioner of Police,  
Delhi, Police Headquarter,  
I.T.O., New Delhi-110002.

2. Ministry of Home Affairs,  
Through Secretary,  
North Block,  
Central Secretariat,  
New Delhi.

.. Respondents

(By Advocate : Ms. Ritika Chawla)

**ORDER (ORAL)**

The applicant is the son of Late Shri Daya Chand, who was employed as Sub-Inspector in Delhi Police and died on 03.04.2011. On 19.04.2011 (Annexure-C), the applicant's mother applied to the

Police Commissioner for compassionate appointment of the applicant as Constable (Driver). The respondents processed the matter and the relevant verification of Driving Licence and other particulars of the applicant could be received only on 05.07.2013. Thereafter, the Committee on compassionate appointment met on 13.01.2014 and his case was rejected because as on 05.07.2013, the applicant was 37 years and 2 months old and the cut off age for SC candidates, to which the applicant belongs, was 35 years.

2. Learned counsel for the applicant states that the applicant was born on 20.04.1976 and, therefore, on the date of application, i.e. 19.04.2011, he was 35 years of age, which is the cut off age, and according to the guidelines for compassionate appointment as circulated by the DoPT O.M. dated 16.01.2013, the following has been stipulated regarding age limits:

**“B. RELAXATIONS**

(a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

**Note I** : Age eligibility shall be determined with reference to the date of application and not the date of appointment.

**Note II** : Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.”

3. The learned counsel also relies on Clause (8)(h) of the standing order No.39 of 2014 of Delhi Police regarding compassionate appointment, which stipulates as follows:

“(h) The cut off date for fixing the age of the candidates for compassionate ground appointments shall be 1<sup>st</sup> January & 1<sup>st</sup> July of the year. Meeting of Police Establishment Board shall be held one in six months or earlier, if the need so arises.”

Therefore, it is the contention of the learned counsel for the applicant that as on the date of application, i.e. 19.04.2011, the applicant was within the age of cut off of 35 years and, therefore, he should be granted compassionate appointment by the respondents.

4. Learned counsel for the respondents stated that in accordance with the Standing Order No.39 of 2014, compassionate appointment is not a matter of right. She also referred to Clause (1)(vi) as well as Clause (8)(e), which provide as follows:

“(1)(vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

(8)(e) The genuineness certificate of HTV Driving Licence is mandatory from the concerned Transport Authority before forwarding the case for the post of Const.(Dvr.)”

5. It is her contention that it was necessary to verify the genuineness of the Driving Licence from the concerned Transport Authority and other antecedents of the applicant before his case could be considered for compassionate appointment and, therefore, since all the particulars were available only on 05.07.2013, the respondents had considered his case promptly on 31.01.2014. Since the applicant by then had crossed the age of 35 years, i.e. he was 37 years 2 months old, his case was rejected being overage.

6. Heard the learned counsel for both sides and perused the respective pleadings.

7. The provision of DoPT O.M. dated 16.01.2013 clearly states that the date of application should be treated as the cut off date for consideration of compassionate appointment. Therefore, this date will be 19.04.2011, on which date the applicant was 35 years old and, hence, not overaged. The respondents surely need to verify the antecedents, such as Driving Licence, as provided by the applicant and this took more than two years.

8. In my view, the completion date of the process taken by the respondents for verification cannot be taken as the cut off date as (i) the DoPT guidelines does not say so. In fact, it is stated that the date of application should be considered as cut off date; and (ii) if two applicants applied on the same date and the process of verification take different time period, if the cut off date is taken up as the date of completion of processing, it would led to discrimination and would be against the principles of natural justice.

9. In view of above, the O.A. is allowed. Order dated 13.01.2014 and letter dated 15.09.2014 are hereby quashed and set aside. The respondents are directed to appoint the applicant as Constable

(Driver), subject to his otherwise being eligible for such appointment, within 90 days from the date of receipt of a certified copy of this order. No order as to costs.

(P.K. Basu)  
Member(A)

*/Jyoti/*