

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

OA-3556/2016

Reserved on : 27.11.2017.

Pronounced on : 30.11.2017.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Bharat Bhushan,
S/o Late Sh. Rajender Prasad,
R/o Village Behta Hajipur,
Post Badas, Loni, District Ghaziabad,
UP-201102.

.... Applicant

(through Ms. Priyanka Singh for Sh. Ajay Vikram Singh, Advocate)

Versus

Union of India through
Chief Commissioner of Central Excise,
Cadre Control Unit (Delhi Zone),
CR Building, IP Estate, New Delhi.

.... Respondents

(through Dr. Ch. Shamsuddin Khan, Advocate)

O R D E R

The current O.A. has been filed by the applicant seeking the following reliefs:-

- “(a) To allow the OA with exemplary costs.
- (b) Quash the:

(1) C.No. II-3(15) Et.I/2007 dated 04.04.11 issued by the Office of the Chief Commissioner of Central Excise, Cadre Control Unit (Delhi Zone), New Delhi.

(2) C.No. II-3(21) CC/C.A./2014/15360/ dated:-23.12.14 issued by the Office of the Chief Commissioner of Central Excise, Cadre Control Unit (Delhi Zone), New Delhi.

(3) C. No. II – 3(15) Et. –I/2007/19188/05/03/2015, dated: March 2015 issued by the Office of the Chief Commissioner of Central Excise, Cadre Control Unit (Delhi Zone), New Delhi.

II) Direct the Respondents to appoint the Applicant on Compassionate Grounds in place of his father Late Sh. Rajender Prasad as per his qualification and suitability."

2. Briefly stated, the facts of the case are that the father of the applicant was working with the respondent department at IGI Airport on the post of ASI Dog Handler. He died in an accident on 05.06.2007. He was survived by his aged father, wife, son (the applicant), one married and two unmarried daughters.

3. The wife of the deceased (mother of the applicant) informed the respondents about the untimely death of her husband vide acknowledgement No. 956 dated 08.06.2007. The applicant wrote an application dated 03.02.2010 to the respondents requesting for compassionate appointment, in response to which the respondents ordered financial verification of the family of the deceased. After one year, i.e. on 10.03.2011, Screening Committee rejected the case of the applicant for compassionate appointment being time barred. The applicant was informed of this on 18.04.2011.

4. The applicant again wrote to Additional Commissioner, Cadre Control Unit, Delhi Zone for considering his case for compassionate appointment on 09.07.2012. Again on 27.08.2012 mother of the applicant wrote to the respondents repeating this request. On 19.06.2013, the respondents again conducted a verification of the financial condition of the deceased employee. The verification report submitted by the AO, IGI Airport, New Delhi, reads as under:-

**" PROFORMA FOR VERIFICATION OF THE FINANCIAL CONDITION OF THE
DECEASED GOVERNMENT SERVANT**

(1) IMMOVABLE PROPERTY:-

- (i) Complete details of present residential accommodation
 - (a) Address:- Village – Behata Hazipur, Ward No.02, PO-Loni, Distt-Ghaziabad, UP Near Phool Singh ki Chaki Pin-201102
 - (b) Own/rented:- Own
 - (c) Area of the residential premises/plot – 25 Yard
- (ii) Details of any other property in the name of living spouse or other dependent family member:- N.A.
- (iii) Any other relevant information regarding immovable property:-

(ii) MOVABLE PROPERTY:-

- (i) Monthly income of:
 - (a) Living spouse - 8000/- (family pension)
 - (b) Any other family member – N.A.
- (ii) Any other source of income – N.A.

Family Pension Rs.8000/-

- (iii) Details of movable property i.e. Buffalo, car, Bank balance etc. – NIL

(III) Details of dependent family members:-

Sl. No.	Name	Age (DOB)	Educational Qualification	Marital Status	Occupation
1.	Sh. Shiv Lal	85	Uneducated		N.A.
2.	Smt. Jagmali	50	Uneducated	Widow	N.A.
3.	Sh. Bharat Bhushan	30	12 th Pass	Unmarried	N.A.
4.	Smt. Jyoti	29	B.A. Pass	Married	N.A.

5.	Ms. Pooja	26	B.A. Pass	Unmarried	N.A.
6.	Ms. Arti	22	12 th Pass	Unmarried	N.A.

(IV) Any other details/observation by verifying officer:-

Verification report – The family is poor and living in miserable condition.

Sd/-
Raghunandan
Dated 19/06/2013

Sd/-
Raghunandan
Dated 19/06/2013

(RAGHUNANDAN)
A.O.
I.G.I. Airport, New Delhi."

5. The applicant has also drawn attention of the Bench to the O.M. No. 14014/19/2002-Estt.(D) dated 05.05.2003 and No. 14014/02/2012-Estt.(D) dated 30.05.2013 of Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) wherein it has been clarified that any application for compassionate appointment can be considered without any time limit subject to the merit of each case.

6. During the course of hearing, both the learned counsels reiterated the points already raised by them in the OA, counter to the OA, as well as the rejoinder filed by the applicant.

7. I have gone through the facts of the case carefully and given my careful consideration to the facts of the case. It is not disputed that the applicant's father died in the year 2007 leaving behind the family in the extreme pecuniary loss. Even six years down the line when the respondents got the financial verification done, the finding

was that "**The family is poor and living in miserable condition**". The area of the residential premises where six members of the family are reportedly residing is only 25 square yards!! Despite this, the respondents have not taken any steps to examine the case of the applicant sympathetically by following the spirit of the Scheme of Compassionate appointment.

8. It is also borne out from the record that though the family of the deceased had informed the respondents about his death on time, the case of the applicant for compassionate appointment came to be examined and rejected in the year 2011. Hence, the rejection, due to time bar, seems to be due to the delay in processing his case. Timely action by the respondents was warranted to help the family of the deceased to get over the emergency. Clause-16(c) of the Scheme stipulates that "while considering a request for compassionate appointment a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilitiesand all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc." The current case is covered on all fours for grant of compassionate appointment, which seems to have been denied to him by a mechanical handling of the case.

9. In the case of **Sushma Gosain & Ors. Vs. Union of India & Ors.**, (1989) 4 SCC 468 Hon'ble Supreme Court has held that:-

"9. We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

10. In view of the above facts and discussion made above, I allow this O.A. and direct the respondents to reconsider the case of the applicant for compassionate appointment within a period of two months from the date of receipt of a certified copy of this order under intimation to the applicant. In case there is no vacancy available under the compassionate quota, the case may be taken up, when such a vacancy arises. No costs.

(Praveen Mahajan)
Member (A)

/Vinita/