

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

OA No.3596/2016

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

**Reserved on :06.11.2017
Pronounced on :16.11.2017**

Ms. Pallavi Kumari
D/o Late Shri Raman Kumar Singh
Aged 22 years
Hanuman Nagar Colony
Stadium Road
PO Madhubani
Dist. Madhubani
Bihar -847211.

... Applicant

(By Advocate:Shri Padma Kumar S)

VERSUS

1. Union of India through
Secretar
Department of Revenue
Central Board of Excise & Customs
Gr Floor, Hudco Vishala Building
Bhikaji Cama Place, New Delhi – 66.
2. The Chief Commissioner of Central Excise
Delhi Zone
C.R. Building, I.P.Estate
New Delhi – 110 109. ...Respondents

(By Advocate:Shri Rajinder Nischal)

O R D E R

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

The current OA has been filed by the applicant seeking the following reliefs :-

"(i) quash and set aside Order dated 13.7.2016 and the proceedings of 1.2.2016 to the extent it rejected the case of the applicant.

(ii) direct the respondents to consider the case of the applicant on merit for appointment against the vacancies duly calculated and future vacancies.

(iii) Any other relief as may be decided by this Hon'ble Tribunal under the facts and circumstances of the case."

2. The applicant in the instant case is aggrieved by the denial of the compassionate appointment and rejection of her case on the ground that the case is more than 16 years old.

3. Briefly stated, the facts of the case are that the father of the applicant Shri Raman Kumar Singh was an employee under the office of Chief Commissioner of Central Excise, New Delhi. He died on 17.02.1999. The mother of the applicant made a request on 28.04.2005 stating that she is ill and cannot work. She added that both her children are young and they may be considered for compassionate appointment on becoming major and eligible for appointment. On 12.03.2012, the applicant's mother informed the respondents that her daughter i.e. the applicant, has attained the age of 18 years and is now suitable for appointment in the organization on compassionate ground.

4. On 13.06.2012, the applicant's mother received a letter dated 13.06.2012, from the office of Respondent No.2 rejecting her request on the basis of OM dated 5.5.2003, as per which a request for compassionate appointment can be considered only for three years.

5. On 25.07.2014, the mother of the applicant informed the respondents that the said OM dated 05.05.2003 has since been withdrawn by OM dated 26.7.2012 and consequently all the cases of the compassionate grounds are to be considered on merit. To her reminder dated 20.01.2015, she received

a letter dated 05.02.2015 from the respondents, asking for the relevant documents. She states that the necessary documents/information was duly supplied to the respondents. Thereafter the respondents passed the

impugned order dated 13.07.2016 containing the proceedings of the Screening Committee Meeting held on 01.02.2016 stating that "*the applicant's case has not been found fit for recommendation to the Ministry as the case is more than 16 years old and the very fact that the family has been able to manage somehow all these years is adequate proof that the family had some dependable means of subsistence*".

6. In counter to the OA, the respondents state that initially Smt. Poonam Singh W/o late Shri Raman Kumar Singh, vide letter dated 30.01.2002 had requested for compassionate appointment of Shri Liladhar Kumar Singh, nephew of her late husband which was rejected and intimated to her on 08.08.2003. Again, vide order dated nil she requested for compassionate appointment for herself. Her request was recommended for appointment to the post of Sepoy by the Committee, which met on 29.10.2004. As she was above the prescribed age limit, it was recommended that competent authority may consider relaxing the age restriction before considering the case. Her case was again considered for appointment in the meetings held on 28.07.2005. Since there was no vacancy in the grade of Sepoy for compassionate appointment and she was not eligible for any other available post, her case could not be considered in the meeting held on 22.09.2006. Her case was considered and the Committee recommended the case to be "closed" as the case had crossed the prescribed time limit of 03 years for compassionate appointment. When Smt. Poonam Singh requested for compassionate appointment for her daughter Smt. Pallavi Kumari on 12.03.2012 the respondents informed her on 13.06.2012 that the application of her daughter cannot be accepted. Similar decision was conveyed to her on 01.02.2016 after meticulous examination of a similar request made by her on 25.07.2014.

7. During the course of hearing both the counsels reiterated the pleas already submitted in the OA as well as in the counter filed by the respondents.

8. The learned counsel for the applicant drew my attention to the OM relied upon by the applicant, (OM No.14014/3/2011-Estt. (D) dated 26.07.2012) wherein the onus of examining the penurious condition of the dependent family rests with the authorities making compassionate appointment. He stated that grounds of rejection in the impugned order was delay of 16 years. It is also stated therein that since the family has managed for so long after the death of the government servant, they had some dependable means of subsistence available with them. He submitted that the respondents have neither considered her case on merit nor taken into consideration the penurious financial condition of the applicant. He, therefore, prayed to direct the respondents to reconsider the case of the applicant taking into account the acute financial constraints being faced by the applicant and her family.

9. Per contra, the learned counsel for the respondents stated that they have been extremely indulgent to the applicant and even recommended her case for compassionate appointment after the death of her husband. Unfortunately, on both the occasions when her case was recommended, she was found to be over age, plus there was no vacancy in the grade of Sepoy

in compassionate quota. Hence she could not be given the benefit of compassionate appointment. In the third year, her case was recommended to be closed having then crossed the prescribed limit of three years for compassionate appointment.

10. In the subsequent orders dated i.e. 13.06.2012 and 25.07.2014 her case was examined for grant of compassionate appointment to her daughter (the present applicant in the OA) but she was not found fit due to the reasons recorded in the impugned order.

11. I have gone through the facts of the case and the rival contentions of both sides, I find that the respondents have considered the case of the widow of the deceased government servant for compassionate appointment. Her case for compassionate appointment was duly recommended by the respondents which unfortunately, could not fructify on account of the widow i.e. Smt. Poonam Singh, being over age and also because lack of vacancies in the compassionate appointment quota in the cadre of Sepoy.

12. When the current applicant became major, the respondents again considered her case as per the revised OM of DOP&T which stipulates that there is no time limit for compassionate appointment and the same can be extended/granted in the next few years, as per merit of each case.

13. The scheme of compassionate appointment has been envisaged keeping in view the concept related to the need for immediate assistance to the family of the deceased government servants in order to relieve them from economic distress. The very fact that when a family, somehow manages for a period of 16 years then the logical inference drawn is that they had some dependable, adequate means of subsistence. In such cases, adequate means, is not of course, comfortable means. However, it has to be kept in mind that 16 years is a long period, and meanwhile other families, who might be undergoing and facing similar unfortunate circumstances would have also applied for compassionate appointment. The respondents are duty bound to consider each and every case on merit. If an out of the way, liberal view is taken in the case of one applicant, it might be at the cost

of denying, another worst placed applicant, looking for a similar relief under the scheme.

14. In view of the facts and circumstances of the case, I find no infirmity in the decision dated 13.07.2016 taken by the respondents. I, therefore, find no merit in the OA and accordingly dismiss the same. No costs.

(Praveen Mahajan)
Member (A)

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