

**Central Administrative Tribunal  
Principal Bench**

OA No.4410/2014

Order reserved on: 16.11.2016

Order pronounced on: 14.12.2016

***Hon'ble Mr. V. N. Gaur, Member (A)***

1. Mrs. Neelam  
Wife and widow of (Late) Mr. Chander Pal (Ex-Cook),  
Aged 49 years, Department of Science and Technology,  
Residing at House No.18, Katwaria Sarai,  
Balmik Camp,  
New Delhi PIN-110016, Delhi State.
2. Mr. Amit,  
S/o (Late) Mr. Chander Pal (Ex-Cook),  
Aged 27 years, Department of Science and Technology,  
Residing at House No.18, Katwaria Sarai,  
Balmik Camp,  
New Delhi PIN-110016, Delhi State.

- Applicants

(By Advocate: Mr. Vinod Zutshi)

Versus

1. The Union of India,  
Represented by the Secretary,  
Ministry of Science & Technology,  
Government of India,  
Department of Science & Technology,  
Technology Bhawan, New Mehrauli Road,  
New Delhi, Delhi State, PIN-110016.
2. The Chairperson,  
Standing Committee for appointments on  
Compassionate ground,  
Ministry of Science & Technology,  
Government of India,  
Department of Science & Technology,  
Technology Bhawan, New Mehrauli Road,  
New Delhi, Delhi State, PIN-110016.

3. The Under Secretary,  
Ministry of Science & Technology,  
Government of India,  
Department of Science & Technology,  
Technology Bhawan, New Mehrauli Road,  
New Delhi, Delhi State, PIN-110016.

- Respondents

(By Advocate: Mr. N.D.Kaushik)

### **ORDER**

#### **Hon'ble Mr. V.N.Gaur, Member (A)**

The applicant no.2 is aggrieved by the rejection of his request for compassionate appointment by the respondents vide order dated 16.09.2014 on the ground that he was ineligible for consideration being "married son". His father was a Cook in Ministry of Science and Technology. After death of his father on 03.03.2006 the applicant no.2 being son of the deceased employee submitted an application for appointment on compassionate grounds. His request was considered by the department against the vacancies for the years 2006-2011 but he did not meet the short-listing criteria. In the year 2013 he was again considered along with 24 other applicants against one vacancy for the year 2012. According to the summary sheet of marks obtained by the candidates, placed on record at Annexure A-II to the counter filed by the respondents, 8 candidates including the applicant were found to be ineligible for appointment on account of being married. He was asked to

submit details of any other family member for consideration for compassionate appointment but no response was received by the department.

2. According to the learned counsel for the applicant, there was a grave error on the part of the respondents in considering the applicant as ineligible because according to the OM dated 05.09.2016 it has been clarified that married son can also be considered for compassionate appointment if he fulfils all other requirements of the Scheme for compassionate appointment. It was also pointed out by the learned counsel that the aforesaid OM envisaged re-opening of all the cases rejected during the period from 30.05.2013 to 25.02.2015 which were rejected on the ground of marriage alone.

3. Learned counsel for the respondents argued that the case of the applicant was considered in the year 2013 in terms of the DOP&T guidelines dated 30.05.2013 which clearly stipulated that the married son will be ineligible for consideration. Besides that, the Committee had evaluated the case of the applicant along with other eligible candidates in terms of the procedure laid down in OM dated 21.03.2013 and the applicant no. 2 secured 61 marks out of 100. But there were two candidates who secured more marks than the applicant no.2 and two other candidates had secured same marks, i.e. 61 as the applicant. Since the vacancy was only one, the applicant could not have been appointed even if

he was not considered ineligible on marriage ground. He also pointed out that there were other candidates who were considered as primary candidates while the applicant was considered as a secondary candidate. Therefore, the applicant has no case for grant of relief as prayed for in this OA.

4. I have heard the learned counsel for the parties and perused the record. The prayer of the applicant no.2 in this OA is to restore his name for compassionate appointment in view of the latest OM issued by DOP&T dated 05.09.2016 in case of married son.

5. Respondents have tried to justify their action in the case of the applicant for the vacancy year 2012 as at that time DOP&T instructions were that married sons were ineligible for compassionate appointment. In support of their stand the respondents have referred to Tribunal's order dated 19.08.2016 passed in OA No.4217/2014 while the latest clarification in respect of married son has been issued by the DOP&T vide OM dated 05.09.2016. The OM reads as follows:

“F.No.14014/02/2012-Estt.(D)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training

North Block, New Delhi  
Dated the 05th September, 2016

**OFFICE MEMORANDUM**

Subject:- Consolidated Instructions on compassionate  
appointment — Review of FAQs dated

30.05.2013/25.02.2015 with regard to married son.

The undersigned is directed to invite attention to this Department's O.M. No. 14014/6/1994-Estt.(D) dated 09th October, 1998 and OM of even number dated 16th January, 2013 vide which Consolidated Instructions on compassionate appointment were issued. Subsequently, vide FAQ No. 13 dated 30.05.2013 it has been clarified that married sons are not considered as dependent family member and hence not eligible for consideration for compassionate appointment. The clarification with regard to married son as stipulated in FAQ No. 13 dated 30.05.2013 has been reviewed vide FAQ No 60 of even number dated 25.02.2015 as under:-

Sl. No.	Question	Answer
	60 Whether 'married son' can be considered for compassionate appointment?	Yes, if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's O.M. dated 16th January, 2013. This would be effective from the date of issue of this FAQ viz. 25th February, 2015 and the cases of compassionate appointment already settled w.r.t. the FAQs dated 30th May, 2013, may not be reopened. Sr.No.13 of the FAQs dated 30th May, 2013 may be deemed to have been modified to this extent.

2. Pursuant to various Court Orders, the clarification/FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 has been further reviewed in consultation with the Department of Legal Affairs. It has been decided that married son can be considered for compassionate appointment if he otherwise fulfils all the other requirements of the Scheme i.e. he is otherwise eligible and fulfils the criteria laid down in this Department's O.M. dated 16th January, 2013.

3. FAQ No. 13 dated 30.05.2013 and FAQ No. 60 dated 25.02.2015 stands withdrawn from the date of their issue.

4. The cases of compassionate appointment rejected solely on the grounds of marital status in terms of FAQ No. 13 dated 30.05.2013 during the intervening period i.e. w.e.f. 30.05.2013 to 25.02.2015 in respect of married son may be reopened/reconsidered against vacancies occurring after issue of this OM.

5. Hindi version will follow.”

6. Thus, the OM stipulates two things relevant in the context of the present OA:

(i) That with effect from 25.02.2015 the married son is no more ineligible for consideration for compassionate appointment, and

(ii) All those cases which were rejected solely on the ground of marital status during the period from 30.05.2013 to 25.02.2015 will be reopened and considered against the vacancies occurring after the issue of this OM.

7. Another OM of DOP&T dated 26.07.2012 provides that the request for compassionate appointment will not lapse after three years as provided in DOP&T OM dated 05.05.2003. The combined effect of the provisions of the aforementioned two OMs is that applicant is not ineligible for consideration for compassionate appointment because of being married son and that he will continue to be in the list of pending cases for compassionate appointment against the future vacancies.

8. For the aforementioned reasons, there is no justification for the decision of the respondents to still consider the applicant as ineligible and deny him consideration for compassionate appointment. The OA is allowed and the respondents are directed to consider the request of the applicant for compassionate appointment against the future vacancies in accordance with the

rules without debarring him on the ground of being a married son. No costs.

( V.N. Gaur )  
Member (A)

‘sd’

14<sup>th</sup> December, 2016