

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

O.A. No.4447/2013

Friday, this the 28th day of September, 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Tarun Kashyap
s/o late Sh. Prem Chand Kashyap
presently at A-13/4, 4th Floor
Gali No.3, Kaithwara
New Usman Pur, Shahdara, Delhi

..Applicant

(Mr. M K Bhardwaj, Advocate)

Versus

UOI & others through

1. The Secretary
Ministry of Defence
South Block, New Delhi
2. The Controller General of Defence Accounts
Ulan Baatar Road, Palam
Delhi Cantt.
3. The CDA (Army)
Meerut Cantt.
Meerut, UP

..Respondents

(Mr. Rajeev Kumar, Advocate)

O R D E R (ORAL)

The applicant's father, late Mr. Prem Chand Kashyap, was working as Senior Auditor under respondent No.3. He died in harness on 24.03.2006, leaving behind four dependents; widow, one unmarried daughter and two sons, i.e., applicant and other son, who is mentally retarded. The applicant is seeking compassionate appointment. The Board of Officers, on two occasions, have not recommended the case of the applicant for

compassionate appointment, apparently, on the ground that in the marking system, the applicant did not secure adequate marks to become eligible for the compassionate appointment.

2. Mr. M K Bhardwaj, learned counsel for applicant submitted that the applicant had taken a loan of ₹1,50,000/- from different societies, which has been adjusted from his terminal benefits after his death and to that extent, the quantum of terminal benefits have got reduced. Further, the two siblings, namely, Harish Kashyap and Puja Kashyap, were minors when their father died in harness on 24.03.2006. The applicant has not been awarded any marks for this aspect.

3. This issue was raised by Mrs. Priyanka Mitra Bhardwaj, learned counsel for applicant on 06.02.2018 wherein a direction was issued to the respondents to file a short affidavit explaining these two aspects. In compliance thereof, an additional affidavit has been filed on behalf of the respondents, in which these two aspects have been clarified as under:

- i) As per service records, Harish Kashyap was 21 years old and Puja Kashyap @ Kushboo was 19 years old as on 01.07.2007 as per the declaration of late Prem Chand Kashyap (Annexure A-2 of the additional affidavit); and
- ii) There is no provision to award any point against loan taken by the deceased employee.

4. Mr. M K Bhardwaj, learned counsel for applicant argued that the actual age of Harish Kashyap and Puja Kashyap are to be verified from their

school certificates, according to which, their dates of birth are 15.08.1988 (Harish Kashyap) and 02.03.1991 (Puja Kashyap). He, thus, argued that the age of these two siblings, at the time of death of their father, was less than 18 years and indisputably, they were minors.

5. In regard to the loan of ₹1,50,000/- taken by the deceased employee from different societies, Mr. Bhardwaj submitted that the loan has been recovered from the terminal benefits of the employee and to that extent the quantum of terminal benefits have got reduced aggravating the penury condition of the family.

6. I find considerable merit in the arguments of learned counsel for applicant. Even though, inadvertently, late Prem Chand Kashyap might have mentioned the age of his children, namely, Harish Kashyap and Puja Kashyap as 27 & 19 years respectively in the performa on 01.07.2007, but then it is the school certificate, which has to be considered as authenticated document for the purpose of age verification. The school certificates produced in respect of Harish Kashyap and Puja Kashyap leave no doubt in my mind that they were indeed minors at the time of death of their father. Further, it cannot be disputed that after adjustment of the loan amount ₹1,50,000/-, the quantum of terminal benefits have got reduced to that extent.

7. Learned counsel for applicant has also mentioned that the applicant's late father, Prem Chand Kashyap, had taken the loan of ₹1,50,000/- primarily to meet his medical expenses and even most of the GPF accruals were also consumed for the same.

8. Taking all these things into consideration, I am of the opinion that the applicant has to be given marks for the reduced quantum of terminal benefits as well.

9. In the circumstances, I dispose of the O.A. in the following terms:-

i) *The respondents shall award marks in regard to the two minor children.*

ii) *The respondents shall also award the marks for the reduced terminal benefits.*

iii) *The total marks of the applicant shall be reckoned by including the additional marks secured by the applicant in respect of (a) & (b) above. If he is found to be crossing the threshold, in that case, the respondents shall grant him the compassionate appointment, which shall be done within a period of three months from the date of receipt of a copy of this order.*

iv) *Needless to say that the revised marks secured by the applicant shall be compared with the candidates, who were considered for compassionate appointment in the year 2007.*

**(K.N. Shrivastava)
Member (A)**

September 28, 2018
/sunil/