

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

**OA-2068/2017
New Delhi this the 27th day of August, 2018**

Hon'ble Sh. Ashish Kalia Member (J)

Shri Vishal Kapil S/o Late Shri R N. Kapil
R/o 244/6, F-14, Second Floor, Gali No.1
School Block, Mandavali, Fazalpur
Delhi-110092.Applicant

(By Advocate: Sh. E J Varghese) :

Versus

1. The Union of India
Through Secretary, Ministry of Defence,
South Block, New Delhi-110011
2. The Controller General of Defence
Accounts, Ulan Batar Road
Palam
Delhi Cantt-110010
3. The Controller of Defence Accounts
Air Force, R.K. Puram, New Delhi-110066.Respondents

(By Advocate: Sh. Gyanendra Singh)

ORDER (ORAL)

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

“8.1. (a) Allow the Application of the Applicants under section 19 of the Administrative Tribunals Act 1985 with costs.

8.2 (b) Direct the respondents to consider the appointment of the applicant in any of the Group C post on compassionate ground.

(c) Quash and set aside the order dated 10.01.2017 and the speaking order dated 12/03/2004.

2. In this case applicant seeking the compassionate appointment in Group 'C' post and also quash and set aside the order dated 10/01/2017 by which the applicant's case was rejected on the ground of indigency criteria and found unfit for the same. The facts of the applicant is that the father of the applicant has expired on 19.01.2003 and his mother has represented to the competent authority for compassionate appointment ground of her son Sh. Vishal on 08.07.2003, which was rejected by the respondents vide its order dated 12.03.2004 by the respondent no.2. The applicant has also submitted that PCDA Chandigarh under the RTI Act informed that Sh. Jitender Singh and Sh. Manoj Kumar, department has given appointment after gap of six years. The same information has been received under RTI Act, so he has also requested that his case may also be considered for compassionate appointment and approach this Tribunal for redressal of his grievance.

3. Notices were issued to the respondents and the respondents have filed their reply and raised various objections that applicant applying of compassionate appointment after so many years.

4. Sh. Gyanendra Singh, learned counsel for the respondents has drawn criteria based on the revised instructions as contained in MOD (D/Lab) ID No. 19(4)/834-99/1998-D (Lab) dated 09.03.2001 (Annexure-R-2). The case for appointment of the applicant along with other case was considered by the Committee by allotting points for following parameters :-

- i) Family Pension
- II) Terminal Benefits
- iii) Monthly Income of earning members
- iv) Movable/Immovable Property
- v) Number of dependents
- vi) No of unmarried daughters
- vii) No of minor children

5. He also took place the proceedings of Board of Officers on 09.09.2003 by which in para 2 submitted that the applicant was allotted 26 points. He also drawn my attention to the scheme annexed with the reply and also relied upon the judgment of Hon'ble Supreme Court of India in the matter of **UOI vs. Sima Banerjee in Civil Appeal No. 251 of 2017** has held that the compassionate appointment of several years after death was not justified. Hence, considering appointment on compassionate grounds after elapsed of considering period is not justified. He also relied upon the judgment **Umesh Kumar Nagpal Vs. State of Haryana and others** passed by Hon'ble Apex Court has held that compassionate appointment as a matter of course irrespective of

financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

5. On the contrary, the applicant has also relied upon the judgment passed by this Tribunal in the case of Sushma Pandey was decided on 23.10.2008 and relied upon judgment of Hon'ble High Court of Allahabad whereby employment was given to the applicant after nine years.

6. Heard at length and perused the records and pleadings and judgments referred. The basic criteria for giving compassionate appointment is mitigated circumstances of the applicant. In the present case applicant has applied for compassionate appointment though there is delay for applying is considered. On this compassionate appointment, a scheme for compassionate appointment at Annexure R-1, applicant was allotted 26 points in the graph of mitigated circumstances. Thus, the applicant cannot be raised this objection that this case is not considered by the respondents on the ground of delay.

7. The applicant has never questioned of this allotment of points before this Tribunal meaning thereby he is satisfied to the points allotted to the applicant. The applicant raised only comparison of the other aforementioned persons in the OA, who have granted appointment after nine years by the department. This Tribunal is of

the view that applicant's case was re-considered for non grant of compassionate appointment was mitigated circumstances of the applicant was found on the below the required criteria where as more deserving cases were given appointment by the respondents.

8. The department has also urged that his request for appointment on compassionate grounds should take into account this position only availability of vacancy for such appointment and within the ceiling of 5% meant for the purpose.

9. In view of the above, I am of this view the present O.A. is rejected. There shall be no order as to costs.

(Ashish Kalia)
Member (J)

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