

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/01162/2018

Decided on: 27.09.2018

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

Sumit Rawat,

Aged 28 years,

S/o Late Ranbir Singh Rawat,

R/o House No. 4017, Mouli Complex,

Chandigarh, Group C.

Jaswinder Kaur

Applicant

By: **MR. ROHIT JINDAL, ADVOCATE.**

Versus

1. Union of India through Secretary,

To Government of India,

Ministry of Personnel, Public Grievance and Pensions,

Department of Personnel & Training,

North Block, New Delhi-110001.

2. Postgraduate Institute of Medical Education & Research

(PGIMER),

Sector-12, Chandigarh,

through its Registrar-160012.

3. Administrative Officer,

Welfare Department, PGIMER,

Chandigarh-160012.

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Respondents

By : NONE.

O R D E R (ORAL)
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application (O.A) under section 19 of the Administrative Tribunals Act, 1985, inter-alia, for quashing the orders dated 7.3.2018 (Annexure A-13) and 13.8.2018 (Annexure A-15) vide which his claim for appointment on compassionate grounds against Group 'C' post has been rejected.

2. The facts leading to the filing of the instant O.A. are that the applicant had submitted an application for appointment on compassionate ground, on death of his father in harness, which was considered and he was offered appointment as Hospital Attendant Grade-III (Group D post). However, the applicant, who was already working as Clerk on contract basis, did not accept that offer. He represented against this offer praying for appointment against Group C, which has been declined through the impugned orders, hence the O.A.

3. The short question that is involved in this case is as to whether a candidate, seeking appointment on compassionate grounds, can insist that he should be offered appointment against a particular level of post or not?

4. The above question stands answered by the Hon'ble Apex Court of the country holding that the appointment on compassionate grounds cannot be claimed as a matter of right and against a particular post. It has been held in **DIRECTOR OF EDUCATION (SECONDARY) AND ANR. VS. PUSHPENDRA KUMAR AND OTHERS** (1998 (5) SCC 192) that in matter of compassionate appointment there cannot be insistence for a particular post. Out of purely humanitarian consideration and having regard to the fact that unless some source of livelihood is provided the family would not be able to make both ends,

meet, provisions are made for giving appointment to one of the dependants of the deceased who may be eligible for appointment. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependent of the deceased employee. As it is in the nature of exception to the general provisions it cannot substitute the provision to which it is an exception and there nullify the main provision by taking away completely the right conferred by the main provision.

5. It is apparent that just because the applicant has been working as Clerk in respondent Institute on contract basis, he cannot claim, as a matter of right, that he should be appointed against a post of that level only and now that of Hospital Attendant offered to him. The competent authority, in its wisdom, has offered a post on regular basis to the applicant on compassionate grounds, then it is for him to accept or reject it. This Court, in exercise of its limited powers, cannot direct the respondents to offer a post of a particular choice to the applicant, in view of pointed law.

6. In the wake of aforesaid discussion, this O.A. turns out to be devoid of any merit and is dismissed in limine.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P. GOPINATH)
MEMBER (A)**

Place: Chandigarh.
Dated: 27.09.2018

HC*