

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Pronounced on : 31.07.2018
Reserved on : 24.07.2018

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

OA No. 060/00143/2017

Gurmeet Kaur, w/o Bhola Singh aged 54 years, V&PO – Batriana, Teh-Sunam, District Sangruru (Punjab).

...Applicant

BY ADVOCATE: **Sh. Karnail Singh**

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. HQ CE, Military Engineer Services, Chandimandir
3. Director General (Personnel) Military Engineer Services Integrated HQ/Ministry of Defence (Army), E-in-C Branch, Kashmir House, New Delhi.
4. HQ Chief Engineer, Military Engineer Services, Chandigarh Zone, N Area, Chandigarh.

...Respondents

BY ADVOCATE: **Sh. K.K. Thakur**

ORDER

BY MRS. P. GOPINATH, MEMBER(A):-

Applicant applied for appointment for a Group 'D' post on compassionate grounds. Applicant was considered for compassionate appointment in 2011, but argues that he was not given a fair consideration. Applicant produces the statistical data for the year 2012-13 wherein there were 33 vacancies. In the said year,

the name of the applicant fell on Serial No. 45 in the merit list whereas the last selected candidate was at Serial No. 33 of the merit list.

2. Applicant relies on Annexure A-10, RTI information to support his case for appointment.

3. The prayer of the applicant is for considering the son of the applicant for compassionate appointment.

4. The respondents in the reply statement submit that the applicant had on the death of her husband received a sum of Rs. 1,58,460 on account of CGEIS and death-cum-retirement gratuity. The applicant's husband, being an ex-serviceman had already availed leave encashment in his earlier service on superannuation from Army. The applicant is also getting pension from the Army. The applicant's son's case was rejected on the basis of marks obtained by him on the count of various parameters fixed for compassionate appointment, in comparison to other candidates for compassionate appointment. Compassionate appointment is made subject to availability of vacancy under the 5% quota fixed and the total marks obtained on various parameters established by Government of India for consideration in compassionate appointment. The applicant is on receipt of two pensions, one for the husband serving in Army and second for his serving in the respondent department. The non-appointment of the son of the applicant was due to non-availability of vacancy and lower merit in the list of persons seeking compassionate

appointment and in a comparative analysis among similarly placed persons.

5. The counsel for the applicant, during the course of arguments on 23.04.2018, had sought a direction to bring on record the original record of the case wherein the case of the son of the applicant was considered. In the hearing of the OA today, the respondents produced comparative chart, for the three considerations in respect of Sh. Nirmal Singh, son of the applicant, whose father had expired on 15.05.2010 while working as a Mate (FGM) in the office of GE (South) Patiala. The first consideration was made in the year 2010-11 for 26 vacancies in which the applicant secured 74 marks whereas the last selected candidate secured 81 marks, and hence was appointed in preference to the applicant's son who secured less marks, i.e. 74 marks. The second consideration was made in the year 2011-12 for 24 vacancies in which the applicant secured 74 marks whereas the last selected candidate secured 78 marks and hence was appointed in preference to the applicant's son who secured less marks, i.e. 74 marks. In the third consideration, there were 33 vacancies. Applicant's son secured 69 marks and the last selected candidate secured 72 marks. Thus, the applicant's son was considered for appointment on compassionate grounds on three occasions and on all these three occasions having secured lesser marks than the last selected candidate, an offer of appointment could not be made to him.

6. Having perused the record produced by the respondents and the pleadings of the respective parties, we find that the applicant has been given three fair considerations and on every occasion, there were persons more indigent than the applicant, and such more indigent persons got consideration over and above the applicant due to their family circumstances.

7. Law on the subject of compassionate appointment has come up for consideration before the Hon'ble Supreme Court in catena of cases and the entire law can be broadly summarized as follows:-

- i. Only dependants of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground in Groups 'C' and 'D' post alone. (Umesh Nagpal Vs. State of Haryana, J.T. 1994(3) SC 525).
- ii. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help out to get over the emergency.
- iii. Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased is legally impermissible.
- iv. Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

Hon'ble Supreme Court in **Union Bank of India & Ors vs.**

M.T.Latheesh, 2006 (7) SCC 350 observed as follows:-

“.....It is settled law that the principles regarding compassionate appointment that compassionate appointment being an exception to the general rule the appointment has to be exercised only in warranting situations and circumstances existing in granting appointment and guiding factors should be financial condition of the family.....”

8. Taking guidance from Umesh Nagpal (supra) and M.T. Latheesh (supra) and the fact that the applicant has been given consideration on three occasions, we conclude that there is no merit in the claim of the applicant for appointment of his son on compassionate grounds. Hence, the OA is dismissed. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
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