

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 02.08.2018

**ORIGINAL APPLICATION NO. 060/00492/2017
(CWP NO. 5548/2016)**

Chandigarh, this the 3rd day of August, 2018

CORAM: HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

...
Gagandip Singh son of late Shri Harbans Singh resident of Village Pandwala Mubarikpur, Tehsil Dera Bassi, District SAS Nagar (Mohali), Punjab.

....APPLICANT

(By Advocate: Shri Bishan Dass Rana)

VERSUS

1. Union of India through its Secretary, Ministry of Defence, Defence Research and Development Organization, Government of India, New Delhi.
2. The Controller of Defence Account, Allahabad (U.P.)
3. The Director, Terminal Ballistics Research Laboratory, Sector 30 Chandigarh.
4. The Chairman, Compassionate Appointment Committee (CAC), TBRL, Sector 30, Chandigarh.

....RESPONDENTS

(By Advocate: Shri V.K. Arya)

ORDER

AJANTA DAYALAN, MEMBER (A)

The applicant by means of present O.A. has sought relief quashing of the impugned order dated 25.3.2015 (Annexure P-3) rejecting his claim for appointment on compassionate grounds. It is also sought to direct the respondents to grant him appointment on compassionate grounds.

2. The facts of the case are not in dispute. The counsel for the applicant stated that the father of the applicant late Shri Harbans Singh was working as ALS-II in Terminal Ballistics Research Laboratory at Chandigarh. He died in harness on 3.8.2013 after rendering over 31 years of service, leaving behind 4 legal heirs namely his wife and 3 sons. The applicant Gagandip Singh is the youngest son of the deceased employee. He applied for appointment on compassionate grounds in September 2013 with no objection from other family members that the compassionate appointment to be given to him. But his request has been rejected by respondent no. 3 vide impugned order dated 25.3.2015.

3. It is not in dispute that compassionate appointments allows only upto 5% of vacancies to be filled up on compassionate basis. Further the Ministry of Defence has issued on 22.1.2010 a Scheme for Compassionate Appointment - Relative Merit Points and Revised Procedure for Selection giving details of how the merit points are to be awarded while considering compassionate appointment cases. This Scheme was circulated by Joint Director (Pers) vide letter dated 9.2.2010 (Annexure R-2). The case of the applicant for compassionate appointment was examined and was strongly recommended by the Board of Officers at TBRL and was forwarded for consideration by the Competent Authority vide letter dated 24.1.2014 (Annexure R-3). The same was rejected vide impugned order dated 25.3.2015.

4. During the course of arguments, the counsel for the applicant submitted that even though his case was strongly recommended by

the Committee of Officers formed at TBRL, but the same was rejected vide impugned order. It was stated that even though he was ITI pass at the time of making his request for compassionate appointment, but he forgot to mention this fact in his application and this could be a reason for rejection of his application. Further, he stated that the applicant was continuously assured that his case was being considered and he was even employed by the department directly and later through a contractor and continued to work with contractor for over one year. After this, he was suddenly faced with rejection of his application. The applicant also quoted that some other 10th class pass wards of the deceased employees have been appointed against class III posts which according to him is illegal.

5. Counsel for respondents stated that as per the Scheme for compassionate appointment, only upto 5% of vacancies can be filled up through the mode of compassionate appointment. Further, cases of compassionate appointment are decided at DRDO level after receipt of such cases from their various offices across India including about 55 TBRL Laboratories. He further stated that vacancies are worked out on All India level and the Committee for compassionate appointment is also one Committee at All India Level and the appointments are made according to the detailed Scheme and matrix for awarding points given in order dated 9.2.2010 (Annexure R-2). When the case of the applicant was considered for compassionate appointment, there were in all 71 applications as against only 11 vacancies. All the 71 applications

were awarded points as per the matrix mentioned above. The applicant got 42 points out of 100 and there were 53 candidates above him. The last offer was made to candidate with 60 points. He made categorical statement that nobody below the applicant has been given compassionate appointment and there is no question of such situation arising. He further clarified that there are 8 factors on the basis of which the points are awarded namely family pension, terminal benefits, monthly income of earning members and income from property, movable/immovable property, number of dependents, number of unmarried daughters, number of minor children and left over service. Accordingly the points were awarded to the applicant based on the matrix given in the order dated 9.2.2010 and it would not have made any difference in the points obtained by him even if the applicant had included his qualification in ITI.

6. I have heard the learned counsels of the parties and given my thoughtful consideration to the matter.

7. The facts of the case are not in dispute and are already given above. It is clear from the above facts that the scheme for compassionate appointment is very comprehensive and transparent. Number of posts to be filled on compassionate appointment basis is limited to 5% of vacancies only. The vacancies are decided on All India level and recommendations from offices of DRDO across the country are received and are considered by the Committee constituted for the purpose. The instructions on award of merits points are clear and detailed and there is no scope for

much discrimination or foul play therein. The points are awarded to each candidate as per the scheme based on 8 important relevant factors. The counsel for applicant did not contest the points awarded to the applicant. He also did not contest the comparative position of the applicant vis-à-vis others in the merit list. His one plea was that the fact of ITI pass was not reflected in the application for compassionate appointment. He fairly admitted that this was his own lapse. The counsel for respondents clarified that the fact of ITI training would not have had any effect on the points obtained by the applicant as educational qualification is not one of the factors for award of points in the scheme. The counsel for the applicant also referred to the positive assurance given by the department to the applicant that his case for compassionate appointment was under consideration and that the applicant was initially directly engaged by the department and then through the contractor. The counsel for the respondents denied his direct engagement by the department in the written statement filed by him as well as in argument. When the learned counsel for the applicant was asked whether he had any proof of direct recruitment by the department, he failed to do so. As regards engagement by the contractor, the counsel for respondents stated that this matter has to be decided by the contractor and the department is not in a position to direct the contractor to engage specific persons. This Tribunal agrees with the view point of respondents and I am not able to place much reliance on the statement of applicant about his engagement directly with the department in face of denial by the

department and lack of proof on the part of applicant. As regards the engagement of the applicant by the contractor, it is clear that this matter is between the applicant and the contractor and the department does not come into the picture in this regard. It was clearly stated by the respondents that the case of the applicant was considered for compassionate appointment, but as the applicant was comparatively much lower in the merit order as discussed above, he could not be offered appointment.

8. In the light of above, the O.A. is found to be devoid of merit and is dismissed.

(AJANTA DAYALAN)
MEMBER (A)

Dated: 03.08.2018

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