

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO.060/00504/2017 Date of order:- 7.2.2018.

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**

Rahul Suroy son of late Sh. Satpal Singh, resident of House No.3065,
Indra Colony, Sadar Bazar, Karnal, Haryana.

.....Applicant.

(By Advocate :- Mr. D.R.Sharma)

Versus

1. Indian Council of Agricultural Research (ICAR) through Secretary, Krishi Bhawan, New Delhi.
2. The Director, Indian Agriculture Research Institute, PUSA, New Delhi-110 012.

...Respondents

(By Advocate : Shri R.K.Sharma).

ORDER

Sanjeev Kaushik, Member (J):

By means of the present Original Application filed under
Section 19 of the Administrative Tribunals Act, 1985, the applicant
has prayed the following relief:-

" i) That the Annexure A-1 to Annexure A-4 to the extent denying appointment on compassionate appointment be quashed and set aside being wholly illegal and arbitrary; and Annexure A-5 dated 12.5.2017 be also quashed and set aside;

ii) That the respondents be directed to consider the case of the applicant for appointment on compassionate ground as per policy dated 9.10.1998 as the vacancies are available with the respondents(A-14 colly);

iii) That the respondents be directed to allow the applicant to retain the govt. accommodation in the interest of justice".

2. Facts as projected by the applicant are that his father while working as Skilled Supporting staff in the respondent department died on 1.12.2014, leaving behind his wife, three sons and one unmarried daughter. Mother of the applicant submitted representation on 19.12.2014 for giving appointment to the present applicant on compassionate grounds. Applicant submitted his application, complete in all aspects to the respondents on 19.6.2015 and his case was forwarded to the higher authority. The respondents vide letter dated 18.8.2015 asked the mother of the applicant to furnish certain documents and information and in response thereto, mother of the applicant submitted all the desired documents vide letter dated 1.9.2015. Thereafter, the applicant submitted a number of representations with a request for giving him appointment and he was informed vide letter dated 23.1.2016 that his case was examined and will be considered in the next meeting. Applicant was informed vide letters dated 11.4.2016, 22.2.2017, 16.8.2016 & 18.10.2016 that his name find mention at sr.no.90 in the list and his case for appointment on compassionate grounds cannot be considered as number of vacancies under 5% quota are lesser in number. Applicant has further stated that OM dated 18.2.2014 stipulates that where the appointment on compassionate ground has been approved by the concerned department and the name of the spouse/ward is under consideration for 3 years for offering appointment on compassionate due to non-availability of clear vacancy and the Committee has reviewed and certified his penurious condition at the end of the first/second year, the accommodation may be regularized/ allotted in the name of such spouse/ward provided

that appointment is secured within 3 years after the death of the allottee and the accommodation in occupation has not been vacated.

3. The applicant has further stated that his mother submitted a representation for allowing her family to retain the government accommodation till the case of her son for appointment on compassionate ground is not decided as the respondents vide letter dated 12.5.2017 have directed the Superintendent of Police, Karnal, for providing police personnels so that they evacuate the government accommodation allotted in the name of mother of the applicant. Hence the present OA.

4. The Tribunal, while issuing notice of motion to the respondents on 16.5.2017, had stayed the impugned order dated 12.5.2017 for vacating the government accommodation allotted in the name of mother of the applicant and this interim order has been extended from time to time.

5. Pursuant to notice, the respondents have contested the claim of the applicant by filing written statement, wherein they have stated that as per provisions contained in House Allotment Rule SR 317.B.11, government accommodation can be retained by the family of a deceased government servant upto 24 months on payment of normal license fee and the family of the deceased employee has already enjoyed this relaxation after death. They have further stated that OM dated 18.2.2014 is not applicable in the case of the applicant as no assurance has been given to the applicant for appointment on compassionate grounds. The case of the applicant

along with other 90 cases on the basis of parameters like age of the applicant, number of dependents, their age and important needs, financial benefits received and other necessities was considered by the Compassionate Appointment Committee(for short CAC) in its meeting held on 19.12.2015 for four posts of Group 'C' meant for compassionate appointment during the period from 1.10.2014 to 31.10.2015. The CAC again held its meeting on 27.8.2016 for considering 93 cases for five posts (3 + 2 (previously unfilled posts) meant for compassionate appointment and on the basis of criteria devised by the respondent Institute, applicant could not come in the merit list formed for the number of posts meant for compassionate appointment. However, the applicant would also be considered for appointment on compassionate ground, as per rules, in future also. They have further stated that the applicant has been informed about the rules that as per DoPT instructions dated 16.1.2013, only 5% vacant posts arisen during a year under direct recruitment quota in Group C and erstwhile Group D category is earmarked for appointment on compassionate grounds, which is less as compared to number of cases pending for appointment on compassionate grounds in the respondent Institute, due to which all the candidates could not get appointment on compassionate grounds. The respondents have also averred that the applicant is relying upon total vacant posts of Group 'C' supporting staff and LDC and not talking about 5% quota meant for compassionate appointment.

6. The applicant has filed a rejoinder by generally reiterating the averments made in the OA.

7. I have heard the learned counsel for the parties and have perused the material placed on record.

8. Learned counsel for the applicant has argued that the action of the respondents in not considering the claim of the applicant for appointment on compassionate grounds is illegal, arbitrary and liable to be set aside as the respondents have not taken into consideration the indigent condition of the family i.e. there is no regular source of income and there are five dependent members in the family of the deceased employee.

9. Mr. R.K.Sharma, learned counsel for the respondents has argued that the case of the applicant along with other incumbents was considered by the CAC in its meeting held on 19.12.2015 & 27.8.2016 respectively in view of DoPT OM dated 16.1.2013 & 0.5.2013 and his case was not short-listed in the merit list as more deserving candidates than the applicant.

10. I have given my thoughtful consideration to the entire matter and perused the pleadings available on record with the able assistance of the learned counsel for the parties.

11. During the course of arguments, learned counsel for the respondents has produced the consolidated list of marks awarded by the CAC in its meeting held on 19.12.2015 & 26.8.2016 and the maximum/minimum marks awarded to the selected candidate was 38/32 & 41/33, and in both the meetings, applicant got 26 marks, as such, his name was not recommended by the CAC for appointment on

compassionate grounds. Even the recommendations made by the CAC for not recommending the case of the applicant's case cannot be faulted in any manner. The decision of the CAC is in consonance with rules and in keeping with the latest OMs at Annexures R-5 & R-6 on this issue. Even the perusal of the minutes of the CAC also indicates that the applicant was awarded marks under different heads as per his entitlement. He did not secure more marks than the candidates to whom offer of appointment was issued. Since the applicant fails to point out any error, therefore, no direction can be issued to the respondents as prayed for in the present O.A. Appointment under compassionate grounds cannot be claimed as a matter of right. It is an exception which has been recognized by the Court of law to meet out financial constraint by the family on the demise of their bread-earner. The Hon'ble Supreme Court has held in the case of **Umesh Kumar Nagpal Vs. State of Haryana and others**, (J.T. 1994 (3) SC Page 525) that the whole object of granting appointment on compassionate grounds is to enable the family to tide over the sudden crisis and to protect the family of the deceased from financial destitution. Such appointment cannot be claimed as a matter of right or on hereditary basis. The Hon'ble Apex Court has again reiterated in the case of **Santosh Kumar Dubey versus State of Uttar Pradesh** (2009(6) S.C.C. Page 481), as follows :-

"11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and **proximate to the time of the death of the bread earner of the family,**

inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service."

In the case of **State of Chattisgarh & Ors.** Versus **Dhirjo Kumar Segar** (2009(13) S.C.C. Page 600), the Hon'ble Supreme Court has held as follows: -

"15. Appointment on compassionate ground is an exception to the constitutional scheme of equality as adumbrated under Articles 14 & 16 of the Constitution of India. **Nobody can claim appointment by way of inheritance. It is a concession and not a right.**

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17. This Court, times without number has held that appointment on compassionate ground should not be granted as a matter of course. It should not be granted only when dependants of the deceased employee who expired all of a sudden while being in service and by reason thereof his dependants have been living in penury."

12. In view of above discussion, this O.A has been found to be bereft of any merit and the same is accordingly dismissed, with no order as to costs. Needless to say that the interim order granted on 16.5.2017 automatically stands vacated.

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:- February 7,

2018.

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