

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 15.10.2018

ORIGINAL APPLICATION NO. 060/00736/2017

Chandigarh, this the 23rd day of October, 2018

...
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...
Lakhwinder Aheer, aged 24 years, son of late Ramesh Pal, resident of Village Khambra, District Jalandhar.

....APPLICANT

(By Advocate: Shri Manmeet Singh Rana,)

VERSUS

1. Union of India through Secretary, Ministry of Science and Technology, Government of India, Anusandhan Bhawan, 2 Rafi Marg, New Delhi.
2. The Director, CSIR-Council of Scientific and Industrial Research, Adyar, Chennai (Tamil Nadu).
3. Scientist-in-Charge, CLRI Regional Centre, Leather Complex, Kapurthala Road, Jalandhar, District Jalandhar.
4. The Director, CSIR- CLRI Central Leather Research Institute, Adyar, Chennai (Tamil Nadu).

....RESPONDENTS

(By Advocate: Shri Sunder Singh)

ORDER

AJANTA DAYALAN, MEMBER (A)

The present Original Application (O.A.) has been filed by applicant Lakhwinder Aheer feeling aggrieved by order dated 9.8.2016 (Annexure A-1) rejecting his request for compassionate appointment. He has also prayed for reinstatement in service with full back wages and interest on arrears.

2. The brief facts of the case as given in the O.A. are that the father of the applicant Ramesh Pal while working as Principal Technical Officer with the respondent department died on 2.7.2014. The applicant has 2 brothers and 2 sisters and all were married prior to death of his father. The applicant has stated that he is sole dependent on his father and, therefore, he had requested for appointment on compassionate basis vide his letters dated 12.11.2014, 8.12.2014 and 9.12.2016. (Only the last letter has been annexed with the O.A.) His request was rejected vide impugned order dated 9.8.2016 stating that after a balanced and objective assessment of the financial condition, number of dependents, size of family, immediate need, income of earning member etc. of the family of the deceased Council servant, the Compassionate Appointment Committee decided that the applicant's case does not deserve for compassionate appointment and hence his representation has been rejected.

3. The applicant's case is that he was fully dependent on his father and is going through severe financial crisis after his father's death. It is difficult for him to maintain himself and his old aged mother. He has also stated that his own case was never considered by the Committee. He has, therefore, prayed for appointment on compassionate grounds.

4. The respondents have confirmed the facts relating to service of his father and have stated that the deceased had only 4 months service left for his superannuation when he died. He left behind his wife, 2 daughters (both married) and 3 sons (other 2 sons are

married). The respondents have further pleaded that the applicant is not coming with full facts of the case. His mother i.e. wife of the deceased employee applied for compassionate appointment for the applicant vide her request dated 12.11.2014 (Annexure R-1). However, on 8.12.2014 she made a fresh request (Annexure R-2) to change the nomination for appointment in favour of her other son Dharam Pal as the applicant was still studying at that time and was to undergo further studies. Thereafter, the applicant made independent request (Annexure R-3) directly to the respondents on 9.2.2016 requesting for his employment. This request was without consent of his mother and other dependent members. They have, therefore, averred that it is wrong to contend that he is the sole dependent on his father.

5. The respondents have further stated that the request of Sumitra Rani, the wife of the deceased employee, in favour of her other son Dharam Pal was considered by the Compassionate Appointment Committee in its meetings held on 16.12.2014 and 14.1.2015, alongwith other such requests. The Committee took into consideration: a) number of dependents, b) assets and liabilities left behind by the deceased employee, c) income of the earning members in the family, d) size of the family/age of dependent children, e) essential needs of the family etc. in each case. The Committee did not recommend the case of Dharam Pal considering that the deceased had only 4 months service left for superannuation and the family was reasonably well to do on the basis of moveable and immovable properties, retirement benefits

and monthly family pension. Minutes of the meeting of the Committee are annexed with the written statement (Annexure R-4 colly). The decision was communicated to Dharam Pal vide letter dated 6.2.2015 (Annexure R-5).

6. The respondents have further stated that the applicant made request dated 9.2.2016, but his case was not considered because the Committee had already considered the case of Dharam Pal and the decision was based on balanced and objective assessment of the relevant factors as indicated above. The applicant was accordingly informed vide letter dated 9.8.2016 through impugned order. The respondents have argued that compassionate appointment is made only if family is in indigent condition and deserves immediate assistance for relief from financial destitution. It is not a normal mode of appointment. From the records, it was revealed that the family had sufficient means- both movable and immovable - and was not in financial crisis to warrant any immediate relief. It is also stated that there is agricultural land of 18 kanals and land for shop. They also have gold, motor-bike and motor car. Further, they have received about Rs.40 lacs as terminal benefits and are in receipt of monthly pension of Rs. 59,160/- per month. The deceased employee had only 4 months service left for his superannuation. Accordingly, the Committee after objective assessment of the financial position of the family and other relevant factors did not find any merit in the claim of financial distress and rightly rejected the claim for compassionate appointment.

7. Regarding reinstatement in service, the respondents have stated that he was never in service before and as such, there is no question of his reinstatement. The claim for back wages and interest on arrears also does not have any merit as he was never in service before.

8. We have heard the learned counsels for the opposing parties, gone through the pleadings on record and given our thoughtful consideration to the matter.

9. We observe that the applicant has not come out with full facts before this Tribunal. He has mentioned 3 representations dated 12.11.2014, 8.12.2014 and 9.12.2016 in the O.A., but has annexed only the last representation. In fact, as stated by the respondents, the first application dated 12.11.2014 made by Sumitra Rani, wife of the deceased employee, in favour of the applicant was changed in favour of her other son Dharam Pal on 8.12.2014. The representation dated 9.02.2016 was made by the present applicant independently and did not have support of his mother. This fact has not been brought out clearly by the applicant in the O.A.

10. The request of the widow dated 08.12.2014 was considered by the duly constituted Committee and after balanced and objective assessment of all the relevant factors as stated in the reply, the Committee came to the conclusion that the case does not deserve consideration on merit. There are 5 children but all the children were married, except the applicant, at the time of death of Ramesh Pal. All the children were major at the time of his death. The widow is already in receipt of family pension of about Rs. 60,000/- per

month besides retiral benefits of Rs. 40 lacs approximately. In fact, we observe from the minutes of the Committee (Annexure R-4 colly) that in case of Dharam Pal, the retiral benefits and the family pension are by far the highest of all the 9 applications considered and hence there would be no justification in offering compassionate appointment to him. Further, the applicant's father had only 4 months service left for superannuation at the time of his death.

11. During arguments at Bar, the respondents, in support of their stand, have placed reliance on the judgment of Hon'ble Apex Court rendered in the case of **State Bank of India and Ors. vs. Jaspal Kaur** - 2007(2) SLR whereby the claim for compassionate appointment has been rejected even when deceased family received terminal benefit amounting to Rs. 4.57 lacs besides family pension and the bank was held justified in refusing compassionate employment on the ground of financial condition of the family.

12. Compassionate appointment is not an alternative method of employment and is only to overcome the financial distress when the family is in indigent condition. This is not the case in the present O.A. Moreover, the widow has not supported the applicant's claim, but has recommended another son - which request was considered by the Committee and after balanced and objective assessment, the case was rejected. Even if the applicant's own case had been considered, the result would have been no different. This is because his family's financial position and other relevant factors to be taken into account for consideration of compassionate appointment cases would remain the same, not being dependent

on the individual claiming compassionate appointment, but on the financial status of the family as a whole. Hence no fruitful result would have been served by reconsideration of the applicant's own case by the Committee.

13. As regards the applicant's claim for his reinstatement and back wages alongwith interest, the applicant was never in service before and hence his claim for the same has obviously no basis.

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

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 23.10.2018

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