

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00826/2017

Chandigarh, this the 15th day of October, 2018

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

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Sh. Naveen Sharma s/o Late Sh. Harinder Pal, aged 30 years, R/o
Village Bhago Majra, Bairopur, Mohali, Punjab. Group C

....Applicant

(Present: Mr. Rohit Seth, Advocate)

Versus

1. Union of India through the Secretary to Govt. of India, Ministry of Health and Family Welfare, Nirman Bhawan, C-Wing, New Delhi- 110001.
2. The Director, Post Graduate Institute of Medical Education and Research, Sector 12, Chandigarh.
3. Superintending Hospital Engineer, PGIMER, Sector 12, Chandigarh.

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Respondents

(Present: Mr. Ram Lal Gupta, Advocate)

**ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)**

1. By means of the present O.A., the applicant assails the orders dated 09.03.2017 (Annexure A-1) and dated 21.05.2015 (Annexure A-4), whereby his request for appointment on compassionate grounds has been turned down.

2. Along with the O.A., the applicant has moved an M.A. (No. 060/01098/2017) with a prayer to condone the delay, if any, in filing the accompanying O.A, under Section 21(3) of the Administrative Tribunals Act, 1985 read with Section 5 of the Limitation Act.

3. This Court, at the first instance, issued notice both in MA for condonation of delay and O.A. Respondents put in appearance and filed written statement, opposing the prayer of the applicant on the

ground of delay and on merits as well. Applicant has filed rejoinder reiterating the averments made in the O.A.

4. Today, on the request of learned counsel for the parties, the matter is taken up for final disposal.

5. Heard learned counsel for the parties.

6. Learned counsel for the applicant submitted that on the demise of the father, way back on 05.05.2009, the applicant immediately moved a representation to the respondents requesting appointment on compassionate grounds, which was turned down, vide order dated 21.05.2015 (Annexure A-4), on the ground that he is not matriculate and therefore, his case cannot be considered. Subsequently, after acquiring matriculation qualification, the applicant again represented to the respondents vide application dated 22.06.2016 (Annexure A-5), which has been rejected vide order dated 09.03.2017 (Annexure A-1) on the ground that his claim has already been considered and rejected and therefore, it cannot be re-considered.

7. Learned counsel argues that since earlier his case was rejected on the ground of absence of matriculation qualification, he tried to and succeeded in acquiring the requisite qualification and did not challenge the earlier rejection order dated 21.05.2015. Subsequently, his claim was rejected vide order dated 09.03.2017, which he challenged by filing the present O.A. on 26.07.2018, well within the limitation period.

8. On merits, learned counsel submitted that the claim of the applicant was rejected, at the first instance, simply on the ground that he was not matriculate that time, which defeats the very purpose of the policy. Learned counsel argued that the spirit of the

policy for appointment of compassionate grounds is to provide immediate assistance to family of the deceased employee by providing employment and even with relaxed standards, if so required. In this regard, learned counsel drew our attention to clause 18 (e) of the policy, which provides that “request for compassionate appointment consequent on death or retirement on medical grounds of erstwhile Group ‘D’ staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case”. He prays that since the respondents without exploring the ways to apply relaxed standards, straightaway rejected the claim of the applicant, therefore, it is liable to be set aside. He further prays for a direction to the respondents to re-consider his case for appointment on compassionate grounds.

9. Per contra, learned counsel for the respondents vehemently opposed the prayer of the applicant and submitted that since the applicant was not matriculate which is the minimum qualification required for govt. employment, therefore, his claim has rightly been rejected on this ground.

10. After giving our thoughtful consideration to the matter and perusing the pleadings available on record, we are of the view that there is no delay in filing the O.A. MA No. 060/01098/2017 stands disposed of accordingly.

11. A perusal of the impugned order (Annexure A-4) suggests that the claim of the applicant for compassionate appointment was not considered as per the spirit of the policy and the respondents did not apply its mind to apply relaxed standards to provide a source of livelihood to a ward of deceased Group D employee. They

could even consider granting appointment with a rider to acquire the requisite qualification within some stipulated period, keeping in view the facts and circumstances of the case. That aspect of the matter has totally been ignored and the respondents, without application of mind, straightway rejected the claim of the applicant, simply on the ground of lack of requisite qualification, which cannot be allowed to sustain being in contravention of the spirit of the policy.

12. In view of the above, the impugned orders dated 21.05.2015 (Annexure A-4) and 09.03.2017 (Annexure A-1) are hereby quashed. The matter is remitted back to the respondents to reconsider the claim of the applicant, as per the policy and in the light of the observations made hereinabove. The needful be done within a period of three months from the date of receipt of a copy of this order.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 15.10.2018

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