

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD**

**Original Application No.612/2016**

**Date of C.A.V. : 13.11.2017**

**Date of Order : 15.02.2018**

**Between :**

Bhisetty Jagadeeswara Rao,  
S/o Late B.Sambasiva Rao,  
Ex. Mazdoor, Ex MES No.124645,  
Door No. 35-1-127, Gavara Kancharapalem,  
Kancharapalem Post, Visakhapatnam – 530 008.

... Applicant

**And**

1. The Union of India,  
Rep. by the Secretary, Ministry of Defence,  
South Block, New Delhi – 110 011.

2. The Engineer-in-Chief's Branch,  
Ministry of Defence (Army) IHQ, Kashmir House,  
New Delhi – 110 011.

3. The Chief Engineer,  
Headquarters, Southern Command,  
Pune – 411 001.

4. The Chief Engineer,  
Eastern Command, Hastings, Kolkata.

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5. The Chief Engineer (Navy),  
Military Engineer Services,  
Railway Station Road,  
Visakhapatnam – 530 004.

6. The Garrison Engineer (I) (P), Navy,  
Kalinga Complex, INS Kalinga,  
Bheemunipatnam, Visakhapatnam – 530 163.

... Respondents

Counsel for the Applicant ... Mr. G.Pavana Murthy, Advocate  
Counsel for the Respondents ... Mrs.K.Rajitha, Sr.CGSC

***CORAM:***

***Hon'ble Mr.Justice R.Kantha Rao ... Member (Judl.)***

***ORDER***

***{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }***

This OA is filed by the applicant to set aside the 5<sup>th</sup> respondents' letter No.11500/29/2935/EINB dated 24.08.2015 where under his claim for compassionate appointment was rejected and to further direct the respondents to consider the case of the applicant in the light of the facts stated in the OA and also as per the latest circular of DOPT instructions on compassionate appointment.

2. The father of the applicant by name Bhisetty Sambasiva Rao, worked as Mazdoor in INS Kalinga, Bheemunipatnam, Visakhapatnam. He died on 30.01.2009 while in service. His terminal benefits were paid to the legal heirs. Subsequently the mother of the applicant made an application to the respondents on 21.12.2009 to provide compassionate appointment to her son i.e. the applicant Bhisetty Jagadeeswara Rao in any Group 'D' post of MES. The same was not considered. Subsequently two applications were made on behalf of the applicant in the subsequent years, but they were also rejected.

3. According to the respondents the case of the applicant for compassionate appointment was considered and as per the policies existing for the year 2010-11 as 1<sup>st</sup> yearly look, 2011-12 as 2<sup>nd</sup> yearly look and 2012-13 as 3<sup>rd</sup> yearly look, they regretted to inform the applicant that he could not be selected for appointment on compassionate grounds being low in merit. They say that speaking orders were issued to the applicant, but the applicant contends that no speaking orders were issued to him.

4. Ultimately the applicant submitted a representation dated 12.08.2015 stating therein that the so called speaking orders for the year 2010-11 as first yearly look, the speaking order for 2011-12 as 2<sup>nd</sup> yearly look and the speaking order for 2012-13 as 3<sup>rd</sup> yearly look relating to his claim for compassionate appointment have not been received from the authorities at any given point of time. Thereafter in response to the said representation, the Chief Engineer, (Navy) Military Engineering Services, Visakhapatnam vide letter dated 24.08.2015 stated that the applicant's contention that he did not receive the speaking orders is not correct, copies of the speaking orders have been enclosed. The respondents also contended therein that as per the rules prevailing at that time, the case of the applicant for compassionate appointment cannot be considered and the same was closed.

5. The applicant relied upon the judgement of the Allahabad High Court in Writ Petition No.13102/2010 which struck down the limitation period of three years for compassionate appointment from the date of death of Government employee and also circular instructions of Department of Personnel & Training dated 26.07.2012 where under the limitation of three years for considering the cases for compassionate appointments was withdrawn.

6. However, the fact remains that the respondents contend in the OA that the case of the applicant was rejected on merit and therefore the question of considering the case of the applicant once again would not arise. As to this it is the version of the applicant that his case was not properly assessed, instead of granting 73 marks, the Screening Committee awarded him only 62 marks. The respondents vehemently opposed the calculation of marks made by the applicant. Their version is that the applicant himself wrongly mentioned in the OA that 15 marks have to be awarded for three minor children. The respondents submit that the deceased person i.e. the father of the applicant had wife, son and mother (3 dependents only) and had no minor children and the applicant is not entitled for the said 15 marks as claimed by him.

7. I have heard Mr.G.Pavana Murthy, learned counsel for the applicant and Mrs.K.Rajitha, learned Senior Central Government Standing Counsel for the respondents.

8. Even though as per the judgement of the Allahabad High Court in the above mentioned Writ Petition or as per the existing rules of the respondents department concerning compassionate appointment there is no limitation for making their claim for compassionate appointment, the said claim cannot be stretched too far and indefinitely. In other words when a claim of compassionate appointment is rejected on merits on more than one occasion, it cannot be said that a person making a claim has a vested right to exercise the same at any time in future.

9. In ***Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138***, the Hon'ble Supreme Court held that the object of compassionate appointment is to enable the family to get over the financial crisis, which it faces at the time of the death of the sole breadwinner and the compassionate appointment cannot be claimed and offered whatever the lapse of time and after the crisis is over. According to the Hon'ble Supreme Court the compassionate appointment cannot be granted after a lapse of reasonable period.

10. In ***State of Haryana Vs. Rani Devi AIR 1996 SC 2445***, the Hon'ble Supreme Court took the view that the appointment on compassionate grounds cannot be made after lapse of period specified in the rules as it is not a vested right to exercise at any time.

11. Further in ***LIC Vs. Asha Ramchandra Ambekar AIR 1994 SC 2148***, the Hon'ble Supreme Court held that the jurisdiction under mandamus should not be exercised by the Court to direct the appointment on compassionate grounds, but the Court should merely direct consideration of the claim of the respondent. To direct the appointment straightway would only put the appellant corporation in piquant situation.

12. Turning to the facts of the present case, the father of the applicant died in 2009, the applicant seeks a direction to the respondents to consider his case for compassionate appointment in 2018 in the present OA. As already said though strictly speaking, there is no limitation for making the claim, it cannot be made after several years. The reason being the object of compassionate appointment is to enable the dependents to tide over the crisis which suddenly arose out of the death of the deceased employee. In the instant case, the applicant did not explain the situation under which he is still making the claim. The respondents rejected the claim of the applicant thrice and furnished the details. It would be inappropriate on the part of the Tribunal to interfere with the discretion exercised by the Screening Committee. The respondents have explained in the reply affidavit the reasons basing on which the claim of the applicant was rejected.

13. For the foregoing reasons, I do not see any merit in the OA and accordingly dismiss the same, without any order as to costs.

**(JUSTICE R.KANTHA RAO)**  
**MEMBER (JUDL.)**

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