

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00057/2019
Chandigarh, this the 13th day of February, 2019

...
CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)

...

Lakhwinder Kaur, Age 54 years, wife of late Sh. Man Singh, Mazdoor, CSD Depot, Bikaner, Resident of Village & Post Office, Dorangla (near Joginder Arora Karyana Store), District Gurdaspur (Punjab) – 143526.

Applicant

(Present: Mr. Barjesh Mittal, Advocate)

Versus

1. Union of India through its Secretary, Ministry of Defence, Govt. of India, Parliament Street, New Delhi – 110001.
2. General Manager, Govt. of India, Ministry of Defence, Canteen Stores Department, “ADELPHI”119, M.K. Road, Mumbai – 400020.

Respondents

(Present: Mr. Sanjay Goyal, Advocate)

ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)

1. Applicant herein has assailed the order dated 22.12.2014 whereby her request for appointment on compassionate grounds on the demise of her son has been turned down by the respondents while relying upon the instructions dated 05.05.2003 which restricts the consideration of the cases for compassionate appointment to thrice only. Along with the application, an MA for condonation of delay of 1116 days in filing the O.A., has also been filed.

2. Heard.
3. Learned counsel for the applicant submitted that since the claim of the applicant for compassionate appointment has been

turned down on the basis of O.M. which has already been withdrawn by the Govt. of India, after the same had been invalidated by the High Court of Allahabad in the case of **Union of India & Others Vs. Smt. Asha Mishra & Others** (CWP NO. 13102 of 2010 decided on 07.05.2010), as affirmed by the Hon'ble Apex Court, therefore, the impugned order be quashed and set aside and a direction be issued to the respondents to consider it afresh.

4. Learned counsel prayed that since the applicant is a poor fellow and has no means of livelihood after the demise of her husband, therefore, the delay occurred in filing the O.A. be condoned.

5. Issue notice to the respondents.

6. At this stage, Mr. Sanjay Goyal, Sr. SCCG, appeared and accepted notice. Though he raised the objection of delay in filing the O.A, he is not in a position to support the impugned order (Annexure A-1) which is based on the instructions which have already been held illegal by the Court of law, and also withdrawn by the DOP&T, vide order dated 26.07.2012 (Annexure A-2).

7. In view of the above, we are of the opinion that the claim of the applicant needs a fresh consideration as her right for consideration has been taken away by the respondents by relying upon the illegal and invalid instructions. MA for condonation of delay is allowed. The impugned order (Annexure A-1) is hereby quashed and set aside. The matter is remitted back to the respondents to consider the claim of the applicant for appointment on compassionate ground in view of O.M. dated 26.07.2012 (Annexure A-2), whereby the cap of three years for consideration of

cases of compassionate appointment was removed, and as per the relevant policy. The needful be done within three months by passing a reasoned and speaking order on the claim of the applicant. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 13.02.2019

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