

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 211 of 2015**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)**

Ashok Kumar Naik, aged about 23 years, S/o Late Sanyasi Naik,  
At – Sanamatipana, PO – Naktigada, PS – Tikiri, Dist. – Rahagada.

.....Applicant

VERSUS

1. Union of India, represented through the Secretary, Ministry of Science & Technology, Govt. of India, New Delhi .
2. The Survey General of India, Hathibarkala Estate, Post Box No. 37, Dehradun – 248001, Uttarakhand, India.
3. The Director, Orissa Geo-Spatial Data Centre, Survey of India, Survey Bhawan, PORR Lab, Bhubaneswar – 751013.

.....Respondents.

For the applicant : Mr.S.C.Puspalaka, counsel

For the respondents: Mr.J.K.Nayak, counsel

Heard & reserved on : 8.2.2019

Order on : 12.2.2019

**O R D E R**

**Per Mr.Gokul Chandra Pati, Member (A)**

This OA has been filed by the applicant seeking the following reliefs :

- “(I) The original application may kindly be allowed.
- (II) The order dated 18.6.2013 passed by the respondent No.2 may kindly be quashed.
- (III) The respondents may kindly be directed to reconsider the case of the applicant for compassionate appointment in any Class III/class IV post within a stipulated time.”

2. The facts in brief are that the applicant's father died on 15.4.2010, while in service. On 9.6.2010 the applicant applied for compassionate appointment. It is stated in the OA that on 19.7.2011, the applicant was asked by the respondents to furnish the required information/documents, which were furnished by the applicant. Then no action was taken by the respondents till order the request for compassionate appointment was rejected vide the order dated 18.6.2013 (Annexure A/5 to the OA).

3. The OA has been filed challenging the order dated 18.6.2013 rejecting the request for compassionate appointment on the following grounds :

(i) Though the applicant had applied as per the DOPT guidelines for compassionate appointment, but his case was not considered by the respondents as per the guidelines. The condition of the family and liabilities vis-a-vis family pension and other retiral benefits was not considered.

(ii) The financial distress of the family was not duly considered.

(iii) Hon'ble Supreme Court in the case of Sushma Gosain has observed that the authority cannot reject the proposal on the ground of non-availability of post and delay it and if necessary, post can be created for compassionate appointment.

4. In the counter, the respondents have mentioned that all 121 candidates for compassionate appointment including the applicant's case, were considered by the Board of Officers on a 100 point scale on various parameters as explained in para 10 of the counter. The applicant obtained a score of 47 out of 100. It was further stated that the Government servant was left with only three years of service and not eight years, as claimed by the applicant in the OA. It was also stated that the vacancy meant for compassionate appointment should be within 5% of vacancies falling under direct recruitment quota. It was also stated that it will be incorrect to say that it is not necessary to calculate the merit points. It is also stated in the counter that the Government servant in this case died five years back and hence, the claim has become stale and old.

5. Rejoinder has been filed by the applicant, denying the contentions in the counter. It was stated that his case cannot be considered since he could not score 50 points or more in the 100-point scale as per the instructions.

6. Learned counsel for the applicant and the respondents were heard and materials on record were perused. The delay in filing the OA was earlier condoned vide order dated 21.12.2018. It is seen from the order dated 18.6.2013 that the following grounds have been mentioned while rejecting the case of the applicant :

(i) The compassionate appointment should be only for really deserving case and be subject to the ceiling of 5% vacancies falling under direct recruitment quota.

(ii) The applicant's case was rejected along with some other cases in which, the merit score obtained was less than 50.

(iii) The object of the scheme is to mitigate the immediate financial distress and crisis faced by the family of the Government employee who died in harness.

7. As per the approved scheme, most important criteria to consider for compassionate appointment is the financial distress and condition of the

family, including its assets and liabilities. The criteria that has been fixed by the respondents in this case, is based on the 100-point scale as explained in paragraph 10 of the counter read with OM dated 21.3.2013 of the Ministry of Science & Technology. It shows that the applicant could score 47 marks out of total 100, for which, his case was rejected. From this criteria as well as the impugned order dated 18.6.2013 nothing is mentioned about the financial condition of the family of the deceased government employee. How many posts were vacant for which, the applicant was considered and whether more deserving cases were selected, nothing has been mentioned. There is nothing to show why the case could not be considered within a reasonable time in spite of the requirement of the scheme that it should be considered expeditiously to provide necessary relief to the family. It is seen that in this case although the application for compassionate appointment was submitted by the applicant on 9.6.2010, the authorities asked the applicant to submit necessary information only on 19.7.2011, which is after a lapse of more than one year. The averments made on this point in paragraph 4.3 of the OA, have not been contradicted by the respondents in the counter or through any other pleading. The reason for delaying the scrutiny of the applicant and to call for required documents has not been explained by the respondents. While considering the cases of compassionate appointment, it is required to be considered expeditiously.

8. On this issue regarding expeditious examination of the requests for compassionate appointment has been considered by Hon'ble Apex Court in a number of cases. In the case of **Smt. Sushma Gosain And Ors. vs Union Of India and Ors. reported in AIR 1989 SC 1976**, it was held by Hon'ble Apex Court as under:-

"8. We heard counsel on both sides and gave our anxious consideration to the Problem presented. It seems to us that the High Court has made the order in a mechanical way and if we may say so, the order lacks the sense of justice. Sushma Gosain made an application for appointment as Lower Division Clerk as far back in November 1982. She had then a right to have her case considered for appointment on compassionate ground under the aforesaid Government Memorandum. In 1983, she passed the trade test and the interview conducted by the DGBR. There is absolutely no reason to make her to wait till 1985 when the ban on appointment of ladies was imposed. The denial of appointment is patently arbitrary and cannot be supported in any view of the matter.

9. We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress....."

In this case, the respondents have delayed the consideration of the request for compassionate appointment and then have stated in the counter that the proposal has become old and stale. No reason has been mentioned by the

respondents as to why the case could not be considered within a reasonable time. In the circumstances, it will be highly unfair to reject the case on the ground of delay by stating the case is old and stale.

9. In view of the above discussions I am not convinced by the grounds mentioned by the respondents in the impugned order dated 18.6.2013 or in their counter for rejecting the case of the applicant. It deserves reconsideration in accordance with the scheme approved by Government.

10. Accordingly, the impugned order dated 18.6.2013 is quashed and set aside. The matter is remitted back to the respondents to reconsider the case of the applicant in accordance with the approved scheme and the guidelines of the Government for compassionate appointment, within three months from the date of receipt of the copy of this order.

11. The OA is allowed as above. There will be no order as to costs.

(GOKUL CHANDRA PATI)  
MEMBER (A)

I.Nath