

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 2927/2016

New Delhi this the 5th February, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

1. SMT. IMRITI DEVI W/O LATE SH. BHAGAT RAM
2. RAJESH KUMAR S/O LATE SH. BHAGAT RAM
R/O RC-124, MATRIKA VIHAR, KHORA COLONY
GHAZIABAD, (UP).

.....Applicants

(By Advocate: Sh. U. Srivastava)

Versus

UNION OF INDIA THROUGH

1. THE SECRETARY
MINISTRY OF URBAN DEVELOPMENT
NIRMAN BHAWAN, NEW DELHI.
2. THE DIRECTOR OF PRINTING
MINISTRY OF URBAN DEVLOPMENT
NIRMAN BHAWAN, NEW DELHI.
3. THE MANAGER, GOI PRESS
MINTO ROAD, NEW DELHI.

.....Respondents

(By Advocate : Dr. Ch. Shamsuddin Khan)

ORDER (ORAL)

1.0 The instant case has been filed by the wife of one Sh. Bhagat Ram, who was an employee with the Government Press which is an

organisation under Ministry of Urban Development. Sh. Bhagat Ram unfortunately died on 12.08.1998 while still in service. The applicant herein made a representation for an appointment of her son Sh. Rajesh, on compassionate ground. It was taken to be an eligible case and his name was put on the waiting list at Sl. No. 144A for such an appointment.

Thereafter, since such an appointment did not materialise, applicant once again approached the respondents who conducted an investigation and it is brought out from the recommendation of the said Committee dated 26.11.2013, that the case of the applicant was found to be justified and the matter was recommended for the second time also.

However, subsequent to that the compassionate ground appointment has not yet materialised. The applicant was advised vide respondent letter dated 15.12.2016 as under-

“The Directorate of Printing vide its O.M. No. 26/5/2010- A.III(Vol. VI) dated 18th November, 2016 has informed that the Directorate is not in a position to recommend any candidate for compassionate appointment at this stage due to non-availability of vacancies under compassionate appointment quota. The cases for compassionate appointment will be considered as per rule, once the vacancies become available for filling up under compassionate appointment quota in future.”

2. Feeling aggrieved. The instant application has been filed seeking a direction to the respondents for consideration of the case of applicant for compassionate ground appointment.

3. The applicant brings out that for small organisation the DoP&T have issued certain policy guidelines dated 16.01.2013 on the subject "consolidated instructions on compassionate appointment regarding". The annexure to this letter contains certain guidelines vide Para 7 (g) thereof, and gives certain guidelines to adopt a method for liberalised calculation of vacancies. The applicant pleads that this needs to be followed by respondents.

The applicant also relies upon a judgement passed by the Tribunal in O.A. 4394/2015 pronounced on 05.04.2018, wherein the DoP&T O.M dated 16.01.2013 was discussed and respondents were directed to consider the case of applicant therein for compassionate ground appointment.

The applicant also relied upon another O.M. issued by Ministry of Defence dated 30.04.2015, which also deals with the compassionate ground cases.

4. The respondents oppose the application. It was brought out that the total number of Government Presses in the country was 22 earlier. However over a period of 20 years, this number has now been reduced to 5 only and as such now there is no direct recruitment in the Government of India Presses. As such, there are no chances for allocation of any quota for compassionate ground appointment.

Further, a large number of cases of the candidates for compassionate ground appointment, were under consideration and they were kept under wait list. With a view to consider such cases, one meeting of the Compassionate Ground Appointment Committee was held on 22.01.2016 and this committee has considered a total number of 519 candidates. Respondent brought out that the applicant secured 62 marks and where as there are other candidates who have secured even more than 90 marks and those candidates were found to be more deserving. Still, on account of there being no direct recruitment, and thus there being no quota of compassionate appointment, the respondent have not been able to offer such an appointment even to the candidate who secured 90 marks.

Even then, it is seen from letter dated 15.12.2016, that all cases have been kept on the wait list and they will be considered in future as and when vacancies arise.

5. The respondents also brought out the attention to two cases decided by the Hon'ble Apex Court, namely, Life Insurance Corporation of India Vs. Mrs. Asha Ramchandra Ambekar and others [JT 1994(2) SC, 183] wherein the Apex Court has laid down as under-

“The High Courts and Administrative Tribunals can not give direction for appointment of person on compassionate ground but can merely direct consideration for the claim for such an appointment.”

The instant case of the applicant for appointment on compassionate grounds, needs to be viewed in the light of this judgment of Hon'ble Supreme Court.

Another case relied upon by the respondents, is in the case of Sh. Umesh Kumar Nagpal Vs. State of Haryana & Others [JT 1994(3) S.C. 525] where the apex court has laid down important principles in this regard out of which the following are applicable here:

- “(iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and help it help it get over the emergency.*
- (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired govt. servant is legally impermissible.*
- (vi) compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.”*

In the light of above, it can clearly be seen in the instant case that

- (a) A period of 18 years has already been passed after the death of husband of the applicant.
- (b) The emergency is over.
- (c) The family of the applicant has successfully survived in this period.

The respondents pleaded that the instant case is more than 20 years old and thus it will not even qualify under the heading immediate family needs and thus OA is not maintainable.

6. The respondents brought out that compassionate ground appointment is not a vested right. It is only a consideration to be extended to the bereaved family to take care of their immediate family needs and to avoid the penurious conditions in such cases. In the instant case, death of the late employee occurred in 1998 and for the last 18 years, the family had been able to survive, which indicates that they have some other sources of earning their livelihood. As such, the compassionate conditions do not subsist any more in the instant case. As such this O.A. is required to be dismissed.

7. The applicants had pleaded only for a consideration, keeping in view the DoP&T directives for liberal calculation for vacancies as per their O.M dated 16.01.2013 and the O.M. of MoD dated 13.04.2015.

8. Matter has been heard at length. Learned counsel Sh. U. Srivastava appeared on behalf of applicant. Learned counsel Dr. Ch. Shamsuddin Khan appeared on behalf of respondents. MA No.2593/2016, filled for joining together is allowed.

9. The facts of the case are not in doubt. The late employee expired in 1998. Compassionate ground appointment is not a vested right but only a consideration to be extended to the bereaved family. In the instant case, this consideration has been extended by the respondent and the applicant's name has been kept on the wait list at Serial No. 144 (A).

The matter was reviewed by the relevant Committee in their meeting held on 21.10.2016 and the Committee noted that there are a total of 519 cases and there were candidates who have secured even 90 marks for compassionate ground appointment who could not be offered appointment. However, applicant's name is kept on wait list.

10. After arguing the matter for some time, the applicant sought to withdraw the O.A., with the pleading that the he would like to await the decision, as and when taken by the respondents on the waiting list.

11. Accordingly, OA is disposed off as withdrawn. No order as to cost.

(Pradeep Kumar)
Member (A)

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