

**Central Administrative Tribunal  
Principal Bench, New Delhi**

OA No. 2852/2017

New Delhi this the 16<sup>th</sup> day of July, 2019

## **Hon'ble Ms. Nita Chowdhury, Member (A)**

Divya (Compassionate Appointment)  
Aged about 23 years,  
D/o late Sh. Derick Singh,  
R/o 84, Ram Vihar, Phase-2,  
Deori Road, Madhu Nagar,  
Agra, Kiraoli Agra,  
Uttar Pradesh -282001  
Presently at H.No.547, Gali No.6,  
Sangam Vihar, Delhi-110 062

(By Advocate: Mr. MK Bhardwaj)

## VERSUS

1. Union of India,  
Through its Secretary,  
Ministry of Defence,  
Defence Production Department,  
Govt. of India, North Block, New Delhi
2. The Director General (OS-8C)  
Master General of Ordnance Branch,  
IHQ of MoD (Army)  
DHQ PO New Delhi-110 011
3. The Commandant,  
509, Army Base Workshop,  
Agra Cantt., UP

- Respondents

(By Advocate: Mr. Satish Kumar)

## **ORDER (Oral)**

The applicant has filed this OA, seeking the following reliefs:-

“(i) To quash and set the impugned order dated 19.04.2017 and direct the respondents to consider the case of the applicant for

appointment on compassionate grounds without any delay.

- (ii) To declare action of the respondents in not appointing the applicant on compassionate grounds as illegal, arbitrary and unjustified and issue appropriate directions for appointing the applicant on compassionate grounds from the date similarly placed persons have been appointed.
- (iii) To allow the OA with cost.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. The main grievance of the applicant is that the respondents are not correctly awarding the marks in her case for compassionate appointment by not taking into consideration the fact that she does not own any immovable property. Consequently, applicant could not be recommended for appointment due to comparative low merit and limited number of vacancies. She further pleaded that the last candidate recommended for appointment had scored 65 points by the Annual Board of Officers held on 06.09.2016 and if the respondents correctly had awarded the points to her by taking into consideration her responsibility of ailing mother and younger brother of age 15, she would have scored more than 65 points. Hence, being aggrieved with the decision of the respondents, the applicant has filed this OA.

3. Counsel for the respondents have vehemently opposed the contentions. They have filed the reply in which they have stated that the case of the applicant was referred to Tehsildar, Sadar Agra vide depot letter No.23205/Gen/Estt.-Ind/677 dated 23.05.2012 for verification of family details, moveable property and immoveable property in respect of the deceased employee and after completion of verification report of moveable/immoveable property and annual income earned by family of deceased on 24.12.2013, the case for the applicant for compassionate appointed was considered. The applicant had got only 44 points out of 100 on the scaling system prepared on various aspects and was found low in the comparative merit list. Her case was further considered in the year 2013-14 and again not recommended due to low merit. Her case was further considered in the year 2014-2015 in which she had got only 44 points where the last recommended scored 65 marks. They have thus prayed that this OA be dismissed.

4. Both the counsel for the parties are aware and accept that the DoPT has issued an OM No.14014/02/2012-Estt.(D) dated 16.01.2013 in which it has been clearly provided that if any of the claimants is

not appointed on compassionate basis on their initial application, they can again apply for the same, if so desire.

5. The legal position is well settled that appointment on compassionate ground is not a source of recruitment, but merely an exception to the requirement regarding appointments being made on open invitation of applications on merits. The underlying intention is that on the death of the employee concerned, his family is not suddenly deprived of the means of livelihood. The object is to enable the family to get over the sudden financial crisis faced by them on the demise of the sole earning member. In the case of **Union of India & Anr. Vs. Shashank Goswami & Anr.** reported as (2012) 11 SCC 307, the Apex Court has observed as under:-

"The claim for appointment on compassionate grounds is based on the premise that the applicant was dependant on the deceased employee. Strictly, such a claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service, and, therefore, appointment on compassionate grounds cannot be claimed as a matter of right."

6. It is not within the domain of the Tribunal to give the points on the basis of the details provided by the applicants and it is the prerogative of the respondents to assess the eligibility of the applicants and accordingly award the points on the basis of the details provided by them. In the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489, the Hon'ble High Court clearly held as under:-

“14. The mandate of the Supreme Court is very clear from the aforesated judgments that it is not for the High Court in exercise of its powers under Article 226 of the Constitution of India to interfere with the decision arrived at by the competent authority while considering the eligibility of an applicant for appointment on compassionate basis and all it can do is to see whether the decision of the competent authority is vitiated. Having scrutinized the cases in hand in the aforesaid background, this Court does not consider it appropriate to interfere with the findings of facts and the conclusion arrived at by the competent authority.”

7. In view of the DoPT OM No.14014/02/2012-Estt.(D) dated 16.01.2013, the applicant can, if she so desires, again apply for compassionate appointment along with a prescribed standard form duly filled up stating her financial hardship as per the instructions of the said OM. If any such application is moved by the applicant, the same shall be considered by the respondents by appropriately assessing the financial hardships of the

applicant for compassionate appointment in its next meeting in accordance with the aforesaid OM and the decision so taken shall be communicated to the applicant within 30 days from the date of the decision of the Screening Committee on compassionate appointments. No costs.

**(Nita Chowdhury)  
Member (A)**

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