

**Central Administrative Tribunal
Principal Bench**

OA No. 644/2018

**Reserved on: 08.05.2019
Pronounced on: 08.07.2019**

Hon'ble Mr. Mohd. Jamshed, Member (A)

Balwant Singh
Son of Shri Balkishan,
R/o C-409, Sewa Nagar,
New Delhi.

Mobile No. 9560032158,
Designation: Ex-Peon, Age 62 yrs.,
Min./Deptt: Chemicals & Fertilizers,
Sub: Compassionate allowance, Group 'D'

...Applicant

(By Advocate: Mr. Susheel Sharma)

Vs.

1. Union of India,
Through the Secretary,
Ministry of Chemicals and Fertilizers.
(Department of Fertilizers)
Shastri Bhawan,
New Delhi - 110001.

2. Deputy Secretary,
Ministry of Chemicals and Fertilizers,
(Department of Fertilizers)
Shastri Bhawan,
New Delhi - 110001.

...Respondents

(By Advocate: Mr. Shailender Tiwari)

ORDER**Mohd. Jamshed, Member (A):-**

The applicant was appointed as Peon in Department of Fertilizers on 20.08.1979. On 30.07.2002, he was placed under suspension on the allegations that he used abusive language and threatened his supervisor in the office. He was found guilty of the charges in the enquiry and the punishment of removal from service was imposed on him on 07.08.2003. His appeal was also rejected. The applicant filed OA No. 207/2004 before this Tribunal against the orders of his removal from service. The Tribunal vide order dated 25.08.2004 directed the applicant to prefer a fresh appeal which will be decided by the Competent Authority. The appeal of the applicant was again dismissed by the Appellate Authority vide order dated 19.11.2004. In second round of litigation, the applicant again filed OA No. 564/2005 challenging the order of Disciplinary Authority and Appellate Authority of removal from service. The Tribunal did not find any merit in the OA and dismissed the same.

2. Subsequently, the wife of the applicant made a representation regarding the precarious pecuniary condition of the family. The Hon'ble Minister was pleased

to allow the applicant compassionate allowance equivalent to 2/3rd of the pension w.e.f. 01.05.2007. The applicant however did not submit the required papers for grant of compassionate allowance and thus could not avail the benefit. The applicant after a lapse of many years made representations dated 01.05.2017 and 19.07.2017 for grant of compassionate allowance which was not granted by the respondents. Aggrieved by this, the applicant has sought the following relief(s):-

"(a) To direct the respondents to release the compassionate allowance to the applicant w.e.f. 01.05.2007 along with interest @ 12% per annum.

(b) To direct the respondents to continue to pay compassionate allowance to the applicant on monthly basis."

3. This is the 3rd round of litigation. In the counter reply the respondents have opposed the OA and reiterated that the applicant was removed from service vide order 07.08.2003. He filed OA No. 207/2004 before this Tribunal against the order of the Appellate Authority. The Tribunal directed the applicant to prefer a fresh appeal. The appeal preferred by the applicant was also rejected by the Appellate Authority vide order dated 19.11.2004. Once again, the applicant filed OA No. 564/2005 challenging the orders of Disciplinary and

Appellate Authority. The Tribunal dismissed the same holding that the punishment of removal of service is not disproportionate to the misconduct. Later, on the representation of the wife of the applicant, the Hon'ble Minister passed the order and allowed compassionate allowance equivalent to 2/3rd of the pension w.e.f. 01.05.2007. The applicant did not submit the required information on prescribed forms for the same. Vide letter dated 22.04.2013, he was once again advised by respondents that he is being given one more opportunity and the order of compassionate allowance issued on 01.05.2007 is considered open, with a condition that he should submit the requisite information and forms within a period of one month from the date of issue of this letter failing which the order for compassionate allowance shall stand cancelled. The applicant even on this second opportunity, did not take any action and was, therefore, not provided compassionate allowance. There is thus no merit in his application seeking compassionate allowance now.

4. Heard Mr. Susheel Sharma, learned counsel for the applicant and Mr. Shailendra Tiwari, learned counsel for

the respondents, perused the pleadings and relied upon judgments.

5. This is the 3rd round of litigation by the applicant. He was removed from service, against which his appeal was rejected. In the first round of litigation he filed OA No. 207/2004 before the Tribunal and in terms of the directives of the Tribunal he preferred another appeal to the respondents which was rejected. Another OA No. 564/2005 was filed by him against the order of Disciplinary and Appellate Authority. The Tribunal dismissed the same being devoid of merit. During this period an order dated 01.05.2007 was issued by the Competent Authority for providing compassionate allowance to him but the applicant did not take any action in response to that order and did not submit the requisite information and forms. Once again he was given an opportunity by the respondents vide letter dated 22.04.2013 to submit the requisite information within a period of one month for grant of compassionate allowance as ordered by the Competent Authority on 01.05.2007. Yet again, the applicant did not take any action on this letter. He has, however, submitted two representations dated 01.05.2017 and 19.07.2017

seeking compassionate allowance yet again. These have been enclosed with the OA. The representation dated 01.05.2017 indicates a letter dated 19.04.2017 issued by the respondents, but the same is not on record. Similarly, the representation dated 19.07.2017 indicates that the applicant has superannuated on 30.09.2016. Both these indicate incorrect information.

6. From the above mentioned, it is evident that the applicant was removed from service in 2003. In 2007, an order was passed for compassionate allowance to be paid to him. He did not avail of that opportunity. Thereafter, another opportunity was given to him vide respondents letter dated 22.04.2013 for obtaining compassionate allowance. The applicant yet again did not avail of this offer and did not take any action further. After a lapse of time, he made two representations dated 01.05.2017 and 19.07.2017 to the respondents in this regard. In view of multiple litigations and the applicant failing to furnish required documents and forms required by respondents on two occasions only indicates that the applicant has failed to avail of the compassionate allowance which was allowed to him by the Competent Authority on not one but two occasions. Thus, he has availed all options and

cannot continue to make such frivolous allegations and representations without taking steps as required in terms of orders issued by the Competent Authority. The applicant was extended an opportunity of availing of compassionate allowance allowed to him in 2007 and later on in 2013. On both the occasions, he did not come forward to complete the formalities within the time allowed to him. This being the third round of litigation and the respondents having permitted him twice the opportunity of availing of the benefit of compassionate allowance, the applicant has failed to do so and cannot claim the compassionate allowance at this stage.

7. In view of the above mentioned, I am of the view that this OA is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

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