

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00742/2017

Jabalpur, this Thursday, the 22nd day of August, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Smt. Nirmala Khatri
(Housewife)
W/o Late Om Prakash Khatri
Aged about 56 years
R/o New Ram Nagar
Bhagwat Sinha Mo.9300884841
Adhartal, Jabalpur (M.P.)

-Applicant

(By Advocate –**Shri H.R. Bharti**)

V e r s u s

1. Union of India,
Through Secretary (101-A, South Block)
Defence Ministry New Delhi 110011

2. General Manager
Vehicle Factory
Jabalpur (M.P.) 482001

- Respondents

(By Advocate –**Shri D.S. Baghel**)

(Date of reserving the order: 01.08.2019)

O R D E R

This Original Application has been filed by the
applicant being aggrieved vide Annexure A/5 dated

09.04.2015 whereby the claim of the applicant for grant of compassionate appointment to her son was rejected by the respondent-department.

2. The applicant has prayed for the following reliefs:-

“8.1 That in view of the above its therefore prayed before this Hon’ble Court may kindly be give direction to the applicant son Rohit as a compassionate appointment.

8.2 That may kindly be directed to the respondents for proper inquiry by the Welfare Inspection of the factory.

8.3 That any other relief and cost if this Hon’ble Court deems fit and proper may kindly be also award in the favour of applicant.”

3. The brief facts of the case are that the applicant’s husband was working with the respondent-department as an Auto Electrician. While posting at Assam the husband of the applicant died on 14.01.2012 Annexure A/1 in the course of employment. The applicant submitted an application for providing compassionate appointment to her son on 27.03.2012 (Annexure A/4). The applicant has also submitted an affidavit dated 05.07.2012 and residential certificate of Tehsildar Panagar dated

04.07.2012 (Annexure A/3) to the respondent-department.

The respondents vide letter dated 09.04.2015 (Annexure A/5) rejected the claim of the applicant. Hence, this Original Application.

4. The respondents have filed their reply wherein it has been submitted that the husband of the applicant was deputed to Vehicle Company Guwahati for temporary duty. During the temporary duty he died on 14.01.2012 due to cardiac arrest. The applicant has submitted an application for grant of compassionate appointment to her son. The case was enquired through the Labour Welfare Commissioner (LWC) VFJ and after assessing various parameters, the case was put up before the screening committee. The applicant's son scored only 42 marks. Due to limited number of vacancy the applicant did not come in merit, therefore the applicant could not be recommended for compassionate appointment. It is further stated that the husband of the applicant did not die as a result of accident while on duty, therefore her case cannot be processed

immediately on priority as provided in OFB instruction circulated vide letter dated 14.07.2010 (Annexure R/2). The case of the applicant can be recommended for compassionate appointment only on the basis of merit. It is submitted that LWC assess the degree of indigence amongst all the applicants considered. Similarly the LWC also keeps in view about the vacancies meant for compassionate appointment which are restricted to 5% of direct recruitment quota. Further the case of the applicant for compassionate appointment has not been rejected but has been carried over to the next screening committee meeting. The case of the applicant has already been considered four times i.e. 02.08.2013, 16.01.2016 and 01.02.2017 but the son of the applicant could not be recommended for compassionate appointment as he has not come in merit. It is submitted that the judgment of the Commissioner Employees compensation is limited for the grant of compensation under the Employees Compensation Act and has no bearing in the instant cases. Further MA

No.2180/2016 has been filed by VFJ Management (General Manager vs. Smt. Nirmala Khatri) challenging the grant of compensation to the applicant which is subjudice in M.P. High Court of Madhya Pradesh. Further the applicant's daughter is married and cannot be considered to be dependent upon the deceased government servant. Even otherwise, the applicant has been granted 15 marks for the parameter of 'number of dependent' which is maximum for the parameter, hence there is no scope for enhancement of marks for this parameter. It is further submitted by the respondents that as per policy in force only the dependent of the deceased government servant who has died while in service should be processed whereas the husband of the applicant has not died while in service hence the claim of the applicant was not considered. Therefore this Original Application is devoid of merit and substance and hence is liable to be dismissed.

5. The applicant has filed rejoinder to the reply filed by the respondents. The applicant has reiterated its earlier

stand taken in the Original Application. It has been submitted that the applicant is seeking compassionate appointment to her son Rohit in place of her late husband who died during course of employment on 14.01.2012. It is specifically submitted by the applicant that the rejection order dated 09.04.2015 (Annexure A/5) passed by the respondents is totally frivolous, arbitrary and liable to be quashed and the case of the applicant should be process immediately on priority as per OFB instruction dated 14.07.2010 It is further submitted that the respondents has considered the case of the applicant four times but it has not disclosed by the management that how many post were vacant and on which post it has been considered.

6. The respondents have filed additional reply to the rejoinder filed by the applicant. It is submitted that the husband of the applicant was not given a cruel task. The employees of the factory are being routinely detailed on deputation to visit Guwahati for official work. The applicant's husband died to cardiac arrest while on

deputation and not due to any accident. Therefore her case for compassionate appointment cannot be processed immediately on priority as proved in OFB instruction dated 14.07.2010. The applicant's case for compassionate appointment could not be recommended as he secured only 42 marks whereas the cut of marks for selection was 65 in last screening. The applicant was intimated the same vide letter dated 03.04.2017. The details of last screening was also communicated vide letter dated 25.09.2018 wherein the person scored 56 marks or above have been recommended for compassionate appointment whereas the applicant had secured 41 marks only. The case of the applicant will be considered on the next screening meeting.

7. Heard the learned counsel for both the parties and have also gone through the documents annexed with the pleadings.

8. From the pleadings there is no dispute to the fact that the husband of the applicant Shri O.P.Khatri was deputed

to Vehicle Company Guwahati for temporary duty. He died on 14.01.2012 due to cardiac arrest. It is also admitted fact that the applicant had submitted an application for grant of compassionate appointment to respect of her son Rohit Kumar Khatri after the death of her husband Late Shri O.P. Khatri. It is also very clear from the pleadings that the case was enquired through the Labour Welfare Commissioner (LWC) VFJ and after assessing various parameters, the case was put up before the screening committee. As per Annexure R/1, in a 100 marks scale, the applicant's son scored only 42 marks and the cut off marks for last selected candidate was 65 marks. Due to limited number of vacancy the applicant's son did not come in merit, therefore the applicant's son could not be recommended for compassionate appointment. It is clear from the reply of the respondents that the vacancies meant for compassionate appointment are restricted to 5% of direct recruitment quota. It is settled law that the compassionate appointment is to be dealt with as per the

compassionate appointment scheme only and it is a complete code in itself. It has come in the reply of the replying respondents that the case of the applicant has already been considered four times i.e. 02.08.2013, 16.01.2016 and 01.02.2017 but the son of the applicant could not be recommended for compassionate appointment as he has no come in merit. The second contention raised by the applicant is that her case should have been considered on priority basis as provided in OFB instruction circulated vide letter dated 14.07.2010 (Annexure R/2). In the reply it has been specifically submitted by the replying respondents that the husband of the applicant did not died in an accident case. Though the applicant has relied upon the order passed by the Commissioner Employees Compensation Labour Court (Annexure A/6) where there is a specific finding that deceased O.P. Khatri died during the course of employment. The replying respondents has specifically submitted in their reply that MA No.2180/2016 has been

filed by VFJ Management (General Manager vs. Smt. Nirmala Khatri) challenging the grant of compensation to the applicant which is subjudice before the Hon'ble High Court of Madhya Pradesh. It has been submitted by the replying respondents that the order of Commissioner Employees Compensation is limited for grant of compensation under the Employees Compensation Act and has no bearing in the instant cases. It has been further submitted by the replying respondents that the case of the applicant was assessed through LWC VFJ and as Late O.P. Khatri did not die as a result of accident while on duty so the OFB circular dated 14.07.2010 is not attracted due to the fact that the husband of the applicant die due to cardiac arrest. Needless to say that cardiac arrest is the ultimate death. The replying respondents have specifically denied the fact that the applicant was given a cruel task. In the additional reply it has been submitted by the replying respondents that the applicant was intimated vide letter dated 03.04.2017 regarding the screening and he had

secured only 42 marks whereas the cut off marks for last selected candidate was 65. The details of last screening was also communicated vide letter dated 25.09.2018 wherein the person scored 56 marks or above have been recommended for compassionate appointment whereas the applicant had secured 41 marks only.

9. In view of the above, I am of the view that there is no illegality in the action of the respondent-department. However the respondent-department has considered the case of the applicant's son for grant of compassionate appointment for five consecutive screening and the applicant could not find place due to the low merit point.

10. Resultantly this Original Application is dismissed.
No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

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