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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.361 of 2003

New Delhi, this the 15th day of October, 2003

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Mrs. Prem Wati
Widow of Late Shri Mehtab Singh
Aged 32 yrs (DOB: 29/7/70)
R/o Village & PO Aya Nagar,
Baba Mohalla, Arjun Garh,
New Delhi-110047.

..... Applicant
(By Advocate : Kulbir Parashar)

Versus

1. Union of India
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.
2. The Engineer in Chief
Army Headquarters,
Kashmir House,
New Delhi-110011.
3. The Chief Engineer (AF) WAC
Palam, Delhi Cant 110010.
4. The Garrison Engineer (AF)
Tughlakabad,
New Delhi-110062.

..... Respondents
(By Advocate : ⁱⁿ Noe even on the second call)

ORDER (ORAL)

In this OA, the applicant impugns the respondents' order dated 11.7.2002 whereby rejecting the request of the applicant for compassionate appointment.

2. The Govt. employee, i.e., husband of the applicant – Mehtab Singh, who was working as a Mazdoor, died in harness on 11.7.1997. Though request was made immediately for grant of compassionate appointment, but the same was considered after a period of five years. By the impugned

order, apart from the order grounds, one of the grounds is that there is a ceiling of 5% quota under the direct recruitment vacancies for this purpose within a year. The case of the applicant though considered cannot be exceeded to for compassionate appointment.

3. Learned counsel of the applicant - Shri Kulbir Parashar reflects the indigent conditions of the deceased Govt. employee's family by stating that only a sum of Rs.46,000/- approx. was paid as terminal benefits and also monthly a family pension of Rs.1380/- which brings the applicant below the poverty line. As such it cannot be said that the family of the deceased Govt. employee is not indigent or less deserving.

4. It is also contended that there is no application as per the policy decision of the DOP&T's Scheme of 1998 to the case of the applicant for compassionate appointment.

5. As none has appeared for the respondents even on the second call, the OA is disposed of in terms of the Rule 16 of the CAT (Procedure) Rules, 1987.

6. I have carefully considered the contentions put forth by the learned counsel for the applicant and perused the reply of the respondents.

7. The ceiling of waiting list of one year has been done away by a clarification issued by the DOP&T on 5.5.2003 to the DOP&T's earlier orders issued in the years 1998 and 1999 which provides as under :-

"G.I., Dept. of Per. & Trg., O.M.
No.14014/19/2002-Estt. (D) dated 5-5-2003

Time-limit for Compassionate Appointment

The undersigned is directed to refer to Department of Personnel and Training O.M. No.14014/6/94-Estt. (D) dated 9.10.1998 and O.M. No.14014/23/99-Estt. (D), dated

3-12-1999 (Sl.Nos.229 and 235 of Swamy's Annual, 1998 and 1999 respectively) on the above subject and to say that the question of prescribing a time-limit for making appointment on compassionate grounds has been examined in the light of representations received, stating that the one-year limit prescribed for grant of Compassionate Appointment is often resulting in depriving genuine cases seeking compassionate appointments, on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% of Direct Recruitment quota.

2. It has, therefore, been decided that if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of the such a person can be continued for consideration for one more year.

3. The maximum time a person's name can be kept under consideration for offering Compassionate appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if Compassionate Appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again.

4. The instructions contained in the above-mentioned OMs stand modified to the extent mentioned above.

5. The above decision may be brought to the notice of all concerned for information, guidance and necessary action."

8. If one has regard to the above clarificatory OM, it relates back to the date of issuance. As such the same is applicable even to the present case, which was considered on 22.7.2002.

9. In this view of the matter, as the case of the applicant, keeping in view the emoluments granted to the family and the responsibilities as well

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as the liabilities, the case of the applicant is a deserving case, as the family is indigent. As such reconsideration is required in the light of the aforesaid OM.

10. In the result, for the reasons recorded above, the OA is disposed of with a direction to the respondents to reconsider the claim of the applicant for compassionate appointment strictly in terms of the OM dated 5.5.2003 by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

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