

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application No.21/392/2019**

**Date of Order: 23.08.2019**

Between:

R. Jagadeeswar  
S/o Late R. Sathaiah  
Aged 31 years, Occ: Unemployee Group C  
R/o Kothagudem Village and Post  
Hayatnagar Mandal, Ranga Reddy District.

.... Applicant

AND

1. The Surveyor General (HQ)  
Survey of India, Hathibarkala Estate  
Dehradun, Uttarakhand, India – 248001.
2. The Addl. Surveyor General  
Indian Institute of Surveying and Mapping,  
Survey of India  
Uppal, Hyderabad – 500 039.
3. The Union of India rep. by its Secretary  
Department of Science and Technology  
Technology Bhavan, New Delhi 110 016. ... Respondents

Counsel for the Applicant ... Mr. M. R. Tagore

Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC

**CORAM:**

**Hon'ble Mr. B.V. Sudhakar, Member (Admn.)**

## **ORDER**

2. The OA is filed for rejecting the request of the applicant for compassionate appointment.

3. Brief facts of the case are that the applicant's father has died while working in the respondents organization as a Khalasi. Applicant represented for compassionate appointment on 27.12.2006 for the post of Group D. The same was rejected on 14.10.2009 for lack of vacancies. On 26.05.2010, respondents intimated that the case of applicant will be considered in the year 2011. Accordingly, it was considered and rejected on 18.04.2011. Aggrieved over the same, applicant filed OA No.761 of 2011, and as per the directions of the Tribunal, the case of the applicant for compassionate appointment was examined and disposed of by rejecting the request of the applicant on 01.01.2013 on the same ground. Applicant challenged the said rejection order once again in OA 1020 of 2014, wherein the respondents were directed to reconsider the request of the applicant for future vacancies as per DoPT OM dated 26.07.2012. Once again, the case of applicant was re-examined and rejected on 11.09.2018. Hence, applicant is before this Tribunal challenging the said impugned order.

4. The contentions of applicant are that the request of the applicant has been rejected by issuing vague impugned orders without disclosing points that have been awarded to each attribute. The rejection is not based on the rules and regulations to be followed for selecting candidates on compassionate grounds. The number of points allotted to the applicant is changing every year. There is no time limit to process the cases for compassionate appointment as per OM dated 26.07.2012, issued by DoPT, Ministry of Personnel, Public Grievances and Pensions. The applicant has a large family to be looked after, and, therefore, the need for compassionate appointment.

5. (I) Respondents opposed the contentions of the applicant by stating that the case of the applicant was considered for compassionate appointment to the Group D post in the years 2008, 2009, 2010 and 2011. Therefore, after being considered consecutively for four years, he could not be selected for the reasons of relative merit and lack of vacancies. Applicant filed OA 761 of 2011 and as directed therein, the case was reexamined and rejected on 01.01.2013 stating that the most deserving candidates were selected based on the number of vacancies available. This rejection order was challenged in OA No.1020 of 2014, and as directed by the Tribunal, the case was once again examined and rejected

since the applicant got only 39 points and stood at 61<sup>st</sup> position, whereas the numbers of vacancies were only 15. A detailed speaking order was issued accordingly.

(II) Respondents have filed an additional reply statement giving the details of the points obtained by applicant as well as those who were considered along with him. Respondents enclosed the recommendations of the Board, constituted for the purpose of compassionate appointment, wherein at Para 11 they have categorically stated that the cases at Sl. Nos.59 to 67 (9 cases) have got less than 45 points (i.e., 10 points less than that of the last selected candidate). The applicant's rank is 61 in the said list and therefore he could not be selected for compassionate appointment. Respondents have also pointed out that for old cases, as per DoPT orders, minus points were also awarded. The applicant's family managing to survive over all the years is one another ground for not considering the request of the applicant. Respondents have cited certain judgments of the Hon'ble Supreme Court in support of their contention.

6. Heard both the counsel and perused the pleadings on record.
7. (I) Applicant has approached this Tribunal seeking directions to the respondents for considering his case for compassionate appointment in OA

No.761 of 2011 and OA 1020 of 2014. In OA 761 of 2011, the Tribunal observed at Para 10 as under:

“10. Without furnishing any of the details, more particularly, awarding of points for each count arriving to a total figure is neither valid nor justified and thus giving total lump sum points is arbitrary and naturally causes prejudice to the interest of the candidates. Added to that, the authorities have not issued any individual rejection order to the applicant rejecting his claim for compassionate appointment and also the reasons therein which also show that the authorities have not followed the procedure in finalizing the claim of the applicant for compassionate appointment and as such, the impugned rejection order is liable to be set aside.”

(II) Though the Tribunal has directed the respondents to furnish the points awarded to each attribute, yet, in the impugned order issued on 01.01.2013, such details have not been furnished. This has led to file OA 1020 of 2014, wherein this Tribunal had directed as under:

“20. In view of the fact that DoP&T OM dated 26.07.2012 has clearly removed the 3 year limit for consideration of cases for compassionate appointment and also in view of the fact that the records placed before this Tribunal clearly bring out the fact that the applicant's case was rejected due to limited number of vacancies under 5% Direct Recruitment Quota, the applicant is entitled to be considered against future vacancies.”

Thus, as can be seen from the above Tribunal has pointed out that the DoPT OM dated 26.07.2012, provides for consideration of compassionate appointment in future years, when rejected on grounds of lack of vacancies in a given year. Based on the direction of the Tribunal, the last impugned

order dated 11.09.2018 was issued, wherein the respondents have issued an elaborate speaking and reasoned order. Respondents have stated in Para 3 that the evaluation of compassionate appointments is based on allotting points, which will be on 9 attributes, and one among the 9 attributes is 'Liabilities'. They have explained in the impugned order that the applicant got only 39 points, giving details of the points allotted to each of the attribute, and that he was placed at 61st position in the relative merit list. The number of vacancies available under the relevant quota are 15 and hence could not, therefore, be selected, as only the first 15 candidates could be considered for compassionate appointment. Respondents have given details of the points allotted to each of the candidate considered for compassionate appointment, along with the applicant.

(III) Learned counsel for the applicant has pointed out that in the Table provided at page No.10 of the additional reply, filed by the respondents, there is no indication about the consideration of points to be allotted under the attributes liabilities. However, respondents did indicate the points allotted for cases considered in the year 2018 at page No.14 of the said additional reply, under the head 'Financial Liabilities'. The learned counsel for the applicant has submitted that the impugned order did not give details, as has been furnished in the additional reply statement, and

that the respondents cannot improve their impugned order by filing an additional reply affidavit. However, it is seen that in the impugned order, the respondents have stated at Para-7 that the number of points allotted is zero against maximum of 10, that can be awarded. Therefore, the impugned order, thus, contained the details of marks awarded to each of the attributes. Further, the last candidate, who was selected, got 55 marks, whereas the applicant got 39 total marks. Learned counsel for applicant, has submitted that awarding of negative marks is unfair since the case of the applicant was being considered before the introduction of the negative marks. Even if that 10 marks was added, the number of marks that would be earned by the applicant is only 49 and, therefore, he could not have been in the select list since the cut of mark was 55.

(IV) Albeit, respondents have not furnished the points awarded to all other candidates who were considered along with applicants yet by not providing such information along with the impugned order does not in any way change the status of the applicant in regard to selection. It would have been an empty formality that would be complied with. As per the Hon'ble Supreme Court in **Haryana Financial Corporation v. Kailash Chandra Ahuja**, (2008) 9 SCC 31, an empty formality need not be given credence to as observed, hereunder:

“40. In Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529, the relevant rule provided automatic termination of service of an employee on unauthorized absence for certain period. M remained absent for more than five years and, hence, the post was deemed to have been vacated by him. M challenged the order being violative of natural justice as no opportunity of hearing was afforded before taking the action. Though the Court held that the rules of natural justice were violated, it refused to set aside the order on the ground that no prejudice was caused to M. Referring to several cases, considering theory of ‘useless’ or ‘empty’ formality and noting “admitted or undisputed” facts, the Court held that the only conclusion which could be drawn was that had M been given a notice, it “would not have made any difference” and, hence, no prejudice had been caused to M.”

(V) Thus, from the details given above, it is seen that the respondents have fairly considered the request of the applicant for compassionate appointment on many occasions, but he could not get qualified in view of the limited number of vacancies as well as relative merit. The Tribunal does not find any reason to intervene on behalf of the applicant for reasons elaborated hereinbefore.

(VI) Nevertheless, before we part, respondents would make it a point to examine and if found feasible, implement the following suggestion at Para 7(II) of OA 223 of 2018 which was brought to the notice of the Tribunal by the learned counsel for the applicant, while submitting his arguments:

“II. Therefore, in view of the aforesaid, respondents in not repeatedly informing the applicant, though pleading for the same, to reveal the marks secured for each

attribute is not a fair proposition, particularly, in the context of selection when the competition is acute. Respondents have to adopt ways and means which display absolute transparency and objectivity. In fact, this Tribunal would like to suggest that the respondents should try to prepare a list of candidates considered for compassionate appointment in three parts – first one consisting of those candidates selected along with marks that they have secured in each of the attribute; second one should consist of those candidates who have not been selected with marks attribute-wise and the third one should enlist the candidates whose cases have been considered based on the orders of the courts with details referred to. Number of vacancies and the year-wise vacancies need also to be indicated. Once this information is placed in the public domain, either by displaying in website of the respondents or by any other means which is convenient to them, grievances arising in regard to compassionate appointment would subside. It is left open to the respondents to work upon this suggestion so that the valuable time of the respondents/prospective applicants could be saved. Of course, unnecessary litigation too can be avoided.”

(VII) To conclude, OA being devoid of merit, merits dismissal, and hence, dismissed with no order as to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

Dated, the 23<sup>rd</sup> day of August, 2019

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