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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10339/2016, CM NO. 40668/2016**
GAURAV KUMAR TIWARI

..... Petitioner

Through: Mr. J.P. Singh, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Mr. Kirtiman Singh, CGSC with Mr.
Prateek Dhanda & Mr. Waize Ali
Noor, Advs.

CORAM:
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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07.11.2016

CM No. 40668/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 10339/2016

1. This writ petition is directed against an order dated 4th March, 2015 whereby the application of the petitioner for compassionate appointment in the Central Industrial Security Force has been rejected.
2. According to the petitioner, the petitioner's father Ram Kumar Tiwari, who was a constable in the Central Industrial Security Force, died

when the petitioner was about three years of age. In his service records, Ram Kumar Tiwari did not disclose the factum of his marriage, nor did he disclose the fact that he had children.

3. According to the petitioner, the petitioner spent his childhood with his maternal grandparents and he submitted an application only when he became eligible for a job. It appears that an application made by the petitioner earlier in 2012 had also been rejected.

4. The petitioner's father Ram Kumar Tiwari died on 8th August, 1994. It was only in 2012 that the petitioner applied for compassionate appointment for the first time.

5. Learned counsel appearing on behalf of the petitioner has drawn our attention to the scheme for compassionate appointment to dependent family members of a Government Servant dying in harness and in particular to paragraph 8 relating to belated requests for compassionate appointment, which reads as follows:-

“BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

(a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a government servant took place long back, say five years or so. While considering such

belated requests, it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.

(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.”

6. The belated application made about five years after the death or medical retirement may be considered. However, it is doubtful whether five years can be extended to eighteen years. By the order impugned, the application has been turned down on the ground of long delay.

7. It is well settled that compassionate appointment is meant to enable the family of a deceased employee to tide over the immediate financial crisis caused by the death of the breadwinner. Compassionate appointment, which

in itself is an exception to the rule of equality has strictly to be in accordance with the Rules and/or the scheme of the employer for compassionate appointment.

8. This Court cannot direct compassionate appointment when an application is made for the first time after 18 years.

9. The writ petition is, therefore rejected.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

NOVEMBER 07, 2016/ak