

\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9079/2017**
KANCHAN KUMARI Petitioner
Through: Mr.Brajesh, Ms.Poonam Seth, Advs.

versus

UNION OF INDIA AND ORS Respondents
Through: Mr.Jashwant Rai, Aggarwal,
Mr.J.K.Tripathi, Mr.Vikrant Goyal, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **16.10.2017**

The petitioner is a widow of Late Head Constable Ajit Kumar who had expired on 30th April, 2005 after cardiac arrest.

The petitioner claims having made 3-4 representations from January, 2006 till 2009 seeking compassionate appointment. Thereafter, she had filed an application/representation dated 7th September, 2015 followed by the application, in the requisite form, dated 9th September, 2015. The petitioner, however, by letter dated 6th May, 2016 was informed that she being over aged (more than 40 years of age) was not entitled to compassionate appointment as per policy.

Counsel for the petitioner has drawn our attention to Annexure P-2, Office Memorandum dated 16th January, 2013 issued by the Government of India, Ministry of Personnel, Public Grievance and Pensions (Department of Personnel & Training). He submits that

there is a provision for age relaxation and this aspect has not been considered.

On being questioned whether the petitioner has enclosed copy of the alleged representations between January, 2006 to October, 2009, it is accepted that the said representations have not been filed. Thus, there is no proof and documents to establish and show that any application seeking compassionate appointment filed till 2015. The petitioner, however, place reliance on paragraph-8 of the Office Memorandum dated 16th January, 2013.

At the outset, we find and record that there is a delay in approaching the Court by this writ petition seeking compassionate appointment. Husband of the petitioner had expired on 30th April, 2005, whereas the application seeking compassionate appointment was made sometime in September, 2015, which is after more than 10 years.

The petitioner is mis-reading paragraph-8 of the OM dated 16th January, 2013 which refers to consideration of the application for compassionate appointment without any time limit and decision is to be taken on merits in each case. The very next paragraph of the OM dated 16th January, 2013 deals with the belated request for compassionate appointment and states that the Department could consider request for compassionate appointment where the death or retirement on medical grounds of a Government servant took place long back, 5 years or so, however, while considering such belated request, the Department has to keep in view that the concept of compassionate appointment is largely related to the need for

immediate assistance and need of 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 over several years would normally be taken as adequate proof that the family had some dependable means of subsistence. Reference can also be made to the judgments referred in the circular including decision in *Umesh Kumar Nagpal vs. State of Haryana* J.T. 1994 (3) 525, which states that the whole object of granting compassionate appointment is to enable the family to tide over sudden crises and relieve the family of the deceased from financial destitution and to help it get over the emergency.

In view of the aforesaid facts, we are not inclined to interfere with the impugned order dated 6th May, 2016 or issue any directions to the respondents for compassionate appointment to the petitioner.

The writ petition is dismissed with no order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

OCTOBER 16, 2017
RN