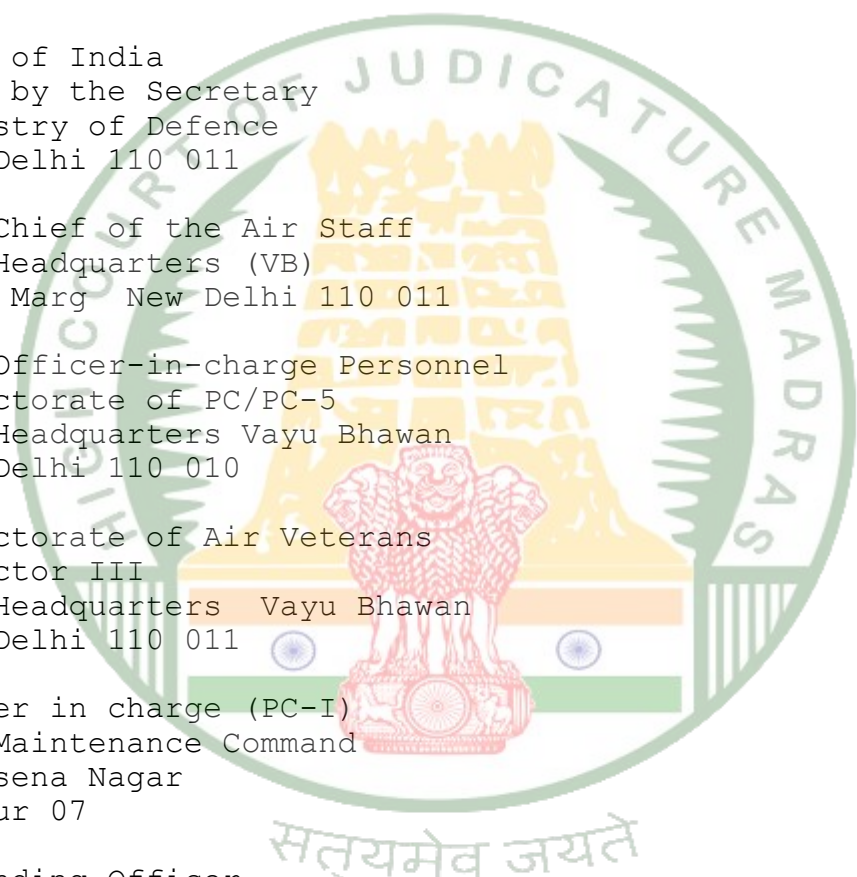


IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.4.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15982 of 2017
and
W.M.P.No.17280 of 2017

- 
- 1 Union of India
Rep. by the Secretary
Ministry of Defence
New Delhi 110 011
- 2 The Chief of the Air Staff
Air Headquarters (VB)
Rafi Marg New Delhi 110 011
- 3 Air Officer-in-charge Personnel
Directorate of PC/PC-5
Air Headquarters Vayu Bhawan
New Delhi 110 010
- 4 Directorate of Air Veterans
Director III
Air Headquarters Vayu Bhawan
New Delhi 110 011
- 5 Officer in charge (PC-I)
HQs Maintenance Command
Vayusena Nagar
Nagpur 07
- 6 Commanding Officer
No.8 BRD Air Force
AF Station Avadi
Chennai-600 055
- Petitioners
- Versus
- 1 Amrita Sinha
- 2 The Registrar
Central Administrative Tribunal
High Court Campus Chennai-600 104
- Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the impugned order of the 2nd respondent dated 5.10.2016 made in O.A.No.310/01721/2015 and quash the same.

For petitioners : Mr.K.Raju
For R1 : Mr.M.Chidambaram

ORDER

(Order of the court was made by HULUVADI G.RAMESH,J.)

Heard the learned counsel appearing for the parties.

2. This writ petition is filed by the Union of India challenging the order passed by the Central Administrative Tribunal directing them to reconsider the appointment of the first respondent herein on compassionate ground to the post corresponding to her qualification against the vacancies for the year 2014-15.

3. It appears that the husband of the first respondent, who was working as Combatant Member (Rank Sergeant) in Indian Air Force at Avadi and died due to Cancer on 6.1.2008 while in service, leaving behind him the first respondent herein and two minor children. The application filed by the first respondent herein seeking appointment on compassionate ground was rejected by the third appellant by his order dated 17.2.2011 and the subsequent application filed on 11.2.2014 was also rejected by the impugned order dated 16.6.2015, on the ground that she obtained less merit points and hence, she challenged the same before the Central Administrative Tribunal. On analysing the facts and circumstances of the case, the Central Administrative Tribunal, directed the appellants to re-consider the appointment of the first respondent herein on compassionate ground. Challenging the same, the Union of India is before us.

4. The stand taken by the Union of India is that the pending applications for appointment on compassionate grounds are more, however, the available vacancies for filling up under the quota of compassionate grounds are very few and therefore, the Ministry had issued certain guidelines vide orders in F.No.19(3)/2009/D(Lab) dated 22nd January 2010 and F.No.19(3)/2009/D(Lab) dated 14th May 2010 and accordingly, the merit of the cases are assessed by allotting points on a hundred point scale in respect of specified parameters such as (i)family pension, (ii)terminal benefits, (iii)monthly income (iv)market value of immovable/movable property, (v)number of dependents (vi)unmarried daughters, (vii)minor children and (viii)left over service of the Government Servant and therefore, the process of offering appointment on compassionate ground is just, fair and in the interest of justice and the first respondent's case was considered strictly as per the laid down guidelines and rejected

only after following due procedure as she could not come up in merit for selection within available number of vacancies woning to lower merit points compared to other candidates.

5. Per contra, the submission of the learned counsel appearing for the first respondent and also the version of the first respondent in the counter filed is that under three attributes out of the abovesaid eight attributes, viz., (i) Family Pension, (ii) Monthly Income and (iii) Market Value of Property, the first respondent was awarded lesser merit points which resulted in reject of her case for appointment on compassionate grounds. It is further contended that the Compassionate Appointment Policy dated 16.1.2013 contemplates the attribute Family Pension and not Enhanced Family Pension whereas the petitioners have wrongly considered the Enhanced Family Pension amount of Rs.8265/- per month ignoring its reduction by 50% i.e., Rs.4959/- per month with effect from 7.1.2018 as per PPO No.08/14/B/F/P/0368/2009 & Corrigendum PPO 08/14/B/CORR/550/2010 respectively and thereby awarded only 10 points instead of awarding 16 merit points. It is further contended that the petitioners have wrongly considered the case of the first respondent sofar as the attribute of Monthly Income is concerned as the Compassionate Appointment Policy stipulates that while the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family members of Government servant on casual/daily wage/ad hoc/contract basis against regular vacancies, however, the petitioners had taken into consideration the ad hoc/contract basis income of the first respondent through private concerns as regular/permanent monthly income and thereby awarded only 3 merit points instead of awarding 5 merit points. The further contention on behalf of the first respondent is that sofar as the market value of the property is concerned, the petitioners had taken into consideration the value of a residential house to the tune of Rs.99,670/- which stands in the name of the parents of the deceased Government Servant wherein they are also living and thereby awarded only 8 merit points instead of awarding 10 merit points.

6. Having heard the learned counsel appearing for the parties and perused the affidavit and counter filed and the order passed by the Central Administrative Tribunal, we find that the Tribunal, having taken note of the contents of annexure A16 found that the first respondent herein neither owes immovable property nor income derived from any other source other than the pension. The Tribunal has also rightly observed that the petitioners had wrongly considered the case of the first respondent with regard to the attributes viz., Monthly Income and Family Pension by taking into consideration the ad hoc income earned by the first respondent herein and the Enhanced Family Pension instead of considering the regular pension which she would be drawing from 7.1.2018 onwards and therefore, the Tribunal has rightly appreciated the case of the

first respondent that denial of appointment on compassionate ground is not justifiable and accordingly, directed to reconsider the appointment of the first respondent herein on compassionate ground to the post corresponding to her qualification against the vacancies for the year 2014-15 in a transparent, humanitarian and sympathetic manner.

7. We do not find any scope for interference with the order passed by the Tribunal. Therefore, it is for the Department to do the needful at the earliest. The writ petition is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Secretary
Ministry of Defence
New Delhi 110 011
- 2 The Chief of the Air Staff
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- 6 Commanding Officer
No.8 BRD Air Force
AF Station Avadi
Chennai-600 055

7 The Registrar
Central Administrative Tribunal
High Court Campus Chennai-600 104

+1cc to Mr.K.Raju CGSC Sr.No.31103
+1cc to Mr.M.Chidambaram, Advocate Sr.No.31083

VGII(CO)
sm:29.6.2018

W.P.No.15982 of 2017



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