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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 21.12.2018**

+ **W.P.(C.) No. 13932/2018**

JASWANT SINGH

..... Petitioner

Through: Mr.D.K.Sharma, Advocate.

versus

ADDL. DIRECTOR (HQ)

CENTRAL GOVT. HEALTH SCHEME & ANR.Respondents

Through: Mr.Amit Chauhan, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A.K.CHAWLA

A.K.CHAWLA, J. (ORAL)

1. Feeling aggrieved of the order dated 28.05.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in short, 'CAT', whereby, an application being OA no. 1942/2018 made by the petitioner seeking compassionate appointment, was dismissed, the petitioner has preferred the present writ petition.

2. Concisely, the relevant facts are that the father of the petitioner was employed with the respondents and died during service on 27.08.2006. According to the petitioner, he made an application seeking compassionate

appointment as a driver on 27.08.2007 and in the absence of its non consideration, he preferred an OA before CAT and during the proceedings so initiated by him, it came to be informed to him that his request for compassionate appointment stood rejected on 30.08.2012 on the ground that he was ineligible as he had not qualified the 12th standard. Thereafter, he filed another OA No.3884/2013 extending challenge to the said rejection on the premise that the respondents had given appointments to few others similarly placed like him and they were appointed as LDCs. During the course of the pendency of the said OA No.3884/2013, the petitioner passed 12th standard and taking into account such further development, CAT vide order dated 27.02.2015 directed the respondents to consider the case of the petitioner during the current year within 3 months. It resulted into filing of contempt petition No.472/2015 as the order of the CAT dated 27.02.2015 was allegedly not complied with. In the counter affidavit filed, the respondents stated that no regular post was available with them. It appears that on further directions issued by CAT during the pendency of the contempt proceedings, the respondents passed a speaking order dated 02.03.2016 - not forming part of the instant writ petition and then, a revised speaking order dated 21.06.2016, reiterating its stand that no regular post was available to be offered on compassionate appointment to the petitioner. In this background, the contempt proceedings came to be closed by CAT on 10.08.2016 reserving the liberty to the petitioner to challenge the order dated 21.06.2016, if he was still aggrieved, in accordance with law. It however emerges from the record that thereafter the respondents passed another order dated 03.05.2017 for his case having been considered by the Committee on

Compassionate Appointment (CCA) in pursuance to the order dated 27.02.2015 and having been rejected for the reasons stated thereunder. On this, petitioner filed WP(C) No. 3261/2018 which was dismissed as withdrawn with the liberty to challenge the revised speaking order dated 21.06.2016. It resulted into filing of OA No. 1942/2018 which has come to be dismissed vide the impugned order.

3. For the compassionate appointment on the demise of the father of the petitioner in the year 2006, the petitioner as of now in the year 2018, is seeking to agitate the correctness of the grounds in rejecting his case of compassionate appointment vide order dated 03.05.2017. The relevant portion of the said speaking order reads as under:

"The case of applicant was considered by the CCA along with the 61 other cases/applications as per the Hon'ble court's Order dt 27.02.2015. But instant case was not recommended by the Committee against the available vacancies. The ground of the rejection of the case mentioned by the Committee is as below:

The committee considered the case as per HON'ble CAT's Order dt 27.02.2015 in OA No.3884/2013 and found that (i) the family has got the terminal benefits around Rs.5.45 lakhs; (ii) the family has the immovable property amounting Rs.7.50 lakhs; and (iii) the family is getting the family pension (Rs.3561/- P.M.* + D.A.) which is sufficient for liveliness of the family consisting two members (including applicant). Hence, the Committee did not find the case fit for compassionate appointment." (copy enclosed)

*Amount of family pension is as per 6th CPC which

is to be revised shortly as per 7th CPC.

..... ..)

4. Even in the instant writ petition, the petitioner does not dispute the abovesaid factual aspects taken note of by the CCA while rejecting his compassionate appointment application vide order dated 03.05.2017. There is also no denial of the fact that CCA considered the case of the petitioner along with 78 other cases/applications against the available vacancies. It is to be understood that the object of compassionate appointment is to enable the family to get over the financial crisis on the untimely demise of a public servant, and such appointment is given as an exception to the normal rule of appointment to a public office after affording equal opportunities to all persons. It is not a vested right for anyone to assert claim to any such appointment. Such appointments in public office are granted as per rules, regulations, guidelines laid for the purpose and against quota prescribed therefor. It is thus obvious that such appointment is to be considered on case to case basis and on the merits of each and every case. For achieving such objective, a committee like CCA is constituted, which looks into the comparative merit of each and every individual case. The speaking order dated 03.05.2017 passed by the respondents is the outcome of such deliberations by CCA. CAT has gone into the merits of the petitioner's case and taking note of the facts and the circumstances dismissed the application of the petitioner inter alia observing as under:

11. Also, Hon'ble Supreme Court in the case of Local Administration Department Vs.M.Selvanayagam (Civil

Appeal No.2206 of 2206) on 05.04.2011 has observed that:

"an appointment made many year after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of Compassionate Appointment, it is imperative to keep this vital aspect in mind."

12. After going through the facts of the case, I find that the case of the applicant has been considered and reconsidered by the respondents. But due to non-availability of the vacancy, he could not be offered appointment on compassionate ground under 5% direct recruitment quota. There is no illegality in the speaking order dated 21.06.2016 which is categorical. The applicant cannot be allowed to re-agitate this matter time and again, at his will. Also, the need for providing immediate assistance to the family to get over the crisis due to sudden demise of the deceased employee does not prevail after more than a decade of the unfortunate incident."

In any event, a claim for compassionate appointment cannot be indefinitely pursued. If such appointment is not granted-for any reason, within a reasonable period, such a claim cannot be entertained, since the urgency-which existed at the time of death of the public servant, would not survive with passage of time. It has been nearly 12 years since the petitioner's father passed away. For this reason as well, we find no merit in his claim.

5. In the given factual conspectus and the position of law, we do not find

any reason to interfere with the impugned order. Writ petition is wholly meritless and is dismissed. No costs.

A.K.CHAWLA, J.

VIPIN SANGHI, J.

DECEMBER 21, 2018/dm

