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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision:-19.07.2024.***+ W.P.(C) 5542/2019
LOKESH RANI

.....Petitioner

Through: Mr.Praveen Agrawal with Mr.Atul
Kumar, Mr.Chandan Kumar, Mr.Rohit Dhamija,
Advs.

versus

UNION OF INDIA & ORS

.....Respondent

Through: Mr.Sushil Kr. Pandey with Ms.Neha
Yadav, Advs.**CORAM:****HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MS. JUSTICE SHALINDER KAUR****REKHA PALLI, J(ORAL)****REVIEW PET. 80/2021 & CM APPL. 14913/2021 –Delay 441 days.**

1. The present review petition filed by the petitioner seeks review of order dated 21.05.2019 vide which this Court had dismissed the writ petition preferred by her, wherein she had assailed the orders dated 22.08.2016 and 07.12.2018 passed by the learned Central Administrative Tribunal rejecting her Original Application being O.A.1657/2014 and Review Application being R.A.43/2018. In her OA, the petitioner had sought directions to the respondents to grant her compassionate appointment following the death of her husband, who was a Packer in the Department of Posts.

2. Learned counsel for the petitioner submits that the order passed by this Court on 21.05.2019 is liable to be reviewed as there are patent errors on the face of record. Though the petitioner had assailed this order by way



of a Special Leave Petition being SLP no. 40199/2019, the same was dismissed as withdrawn with liberty to the petitioner to prefer a review petition before this Court. He submits that while dismissing the petition, this Court has erroneously recorded that the last candidate who was granted compassionate appointment had been awarded 100 points by the Circle Relaxation Committee and, therefore, the petitioner, who has obtained 88 points was rightly not appointed. This assertion of the respondents that the last person selected for compassionate appointment had obtained 100 marks he contends is contrary to record. By drawing our attention to para 6 of the minutes of the meeting of the Circle Relaxation Committee held on 09.06.2011, he submits that persons who had obtained points as low as 67 points were granted compassionate appointment and, therefore, there was no reason as to why the petitioner should not have been granted compassionate appointment.

3. Furthermore, he submits that this Court also failed to appreciate that the mandatory condition to consider cases for compassionate appointment to family members within three years of the date of death of employee also stood waived by the DoP&T's OM dated 26.07.2012. He, therefore, contends that this Court also erred in holding that since the petitioner had approached the Tribunal in 2014, i.e., after five years of her husband's death in 2009, her claim could not be considered. He, therefore, prays that the impugned order be set aside.

4. Per contra, learned counsel for the respondents seeks dismissal of the review petition and submits that the petitioner is trying to mislead the Court by urging that candidates with 67 points were granted compassionate appointment. By referring to the very same minutes of the meeting of the



Circle Relaxation Committee held on 09.06.2011, he submits that the last selected candidate in the MTS cadre, i.e., the cadre to which the petitioner's husband belonged and under which category the petitioner was considered, had obtained 100 points, which aspect was correctly noted by this Court in its order dated 21.05.2019. Since the petitioner was considered under the MTS cadre, she cannot seek parity with those who were considered under the cadre of PA/SA/LDC. Further, the petitioner is also incorrect in urging this Court had held that a claim for compassionate appointment could not be considered after three years and contends that this was not even the stand taken by the respondents before this Court. He, therefore, prays that the review petition be dismissed.

5. Having considered the submissions of learned counsel for the parties and perused the record, even though we find that the petitioner has merely attempted to re-argue the matter, on the insistence of learned counsel for the petitioner and taking into account that the Hon'ble Apex Court granted liberty to the petitioner to file a review petition, we have re-examined the matter on merits. Regrettably, we do find any merit in any of the two submissions of the learned counsel for the petitioner.

6. In order to appreciate the first contention of the petitioner that candidates with lesser points than her were granted compassionate appointment and therefore, she was discriminated against, it may be apposite to note the relevant extracts of the minutes of the meeting of the Circle Relaxation Committee held on 09.06.2011, relied upon by both sides:-

6. As per points, the following candidates are recommended for compassionate appointment and allotted to different Units as follows:-



<i>Sl No.</i>	<i>Name of the applicant with points and relationship with the deceased (Shri/Smt.)</i>	<i>Name of deceased, designation and name of the Unit(Late Shri)</i>	<i>Recommendations of the CRC</i>
A	PA/SA/LDC Cadre		
1.	Poonam Dahiya (88 Points) Wife	Rohtas Dahiya, Ex.PA. on deputation to APS as Warrant Officer, North Dn.	Recommended for the post of PA in Delhi North Dn.
2.	Sangeela (84 points) wife	Surender Kumar, Ex.Postman , N.Delhi West Dn.	Recommended for the post of PA in Central Dn.
3.	Baby Kumar (72 points) wife	Chandan Kumar Chanchal, Ex-PA, Central Dn.	Recommended for the post of PA in NDHO
4.	Ashok Kumar (79 points) son	Madan Pal Singh, Ex-LSG Supervisor, Delhi Sorting Dn.	Recommended for the post of SA in New Delhi Sorting Dn.
5.	Manjeet Singh (67 points) Son	Pratap Singh, Ex-Postman, Delhi GPO	Recommended for the post of SA in Air Mail Stg. Dn.
6.	Raj Bala	Rajinder	Recommended for



	(67 points) Wife	Kumar, ex-PA, North Dn	the Post of LDC in the O/o XEN(E). Meghdoot Bhawan, New Delhi 110001
B.	*	*	*
C.	MTS cadre		
8.	Anju (115 points)	Krishan Swaroop Ex-M/M, Delhi Stg. Dn.	Recommended for the post of MTS in Delhi Stg. Dn.
9.	Gomti Devi (108 points) wife	Manoj Kumar, LDC, DA(P)	Recommended the post of MTS in New Delhi, GPO
10.	Usha Rani (102 points) wife	Ram Kanwar, Packer, Delhi GPO	Recommended for the post of MTS in Delhi GPO
11.	Mamta (102 points) wife	Suresh Chand, Postman, Delhi East Dn.	Recommended for the Post of MTS in Delhi East Dn.
12.	Sudershna Devi (100 points) wife	Naresh Kumar-II Ex-M/M, Delhi Stg. Dn.	Recommended for the post of MTS in Delhi Stg. Dn.

Emphasis Supplied

7. From a bare perusal of the aforesaid, it is evident that the last candidate selected for compassionate appointment from the MTS cadre had obtained 100 points. The petitioner's husband belonged to the MTS cadre and, therefore, she was rightly considered under the same category where



she obtained 88 points. Merely because candidates under a different cadre i.e., PA/SA/LDC were granted compassionate appointment even with lesser points than those obtained by the petitioner, cannot be a ground to grant compassionate appointment to the petitioner who was admittedly considered under a different cadre, i.e., MTS. In our considered view, the petitioner cannot seek parity with candidates who were considered under other different cadres. We, therefore, find absolutely no merit in this plea of the petitioner that she has been discriminated against.

8. Now coming to the petitioner's second contention that this Court had wrongly observed that the claim of the petitioner was barred by limitation. In order to appreciate this plea, it would be necessary to note the relevant extract of our order dated 21.05.2019, which reads as under:-

“The submission of learned counsel for the petitioner is that there was no time limit for consideration of an application for compassionate appointment since the earlier limitation for three years was done away with. We do not find any merit in the petitioner's submission. The compassionate appointment is not a regular source of recruitment and there is no vested right for the petitioner to secure such appointment. It is granted to the bereaved family to tide over the financial distress that it is thrown into on account of the demise of the bread winner of the family who was in government service. The case of the petitioner was considered by the respondents and she could not be appointed since she secured lesser points than the last selected candidate/applicant. There was no surviving urgency to grant compassionate appointment to the petitioner when she approached the Tribunal in the year 2014 considering the fact that the demise of her husband had taken place on 29.09.2009.”

9. What emerges from the aforesaid observations of this Court is that this Court while dismissing a similar petition seeking compassionate



appointment has not referred to any specific period of limitation, much less of three years, but has observed that since the petitioner's husband had expired in 2009, there could be no such surviving urgency for grant of compassionate appointment in 2014, when the petitioner approached the Tribunal for the first time. We, therefore, find no force in the petitioner's plea that this Court had erroneously dismissed the writ petition on the presumption that no claim for compassionate appointment could be considered after three years.

10. Even otherwise, the observations made by this Court to the effect that there was no surviving urgency to grant compassionate appointment with the petitioner, are in consonance with the consistent view taken by the Apex Court. The very purpose of granting compassionate appointment to a family member of a deceased employee is to enable the family to tide over the sudden financial crisis and cannot be treated a source of employment. In this regard, reference may be made to the following observations of the Apex Court in para 8 of its decision in ***Central Coal Fields Ltd vs. Parden Oraol*** (2021)16 SCC 384:-

“8. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that the job is offered to the eligible member of the family [Umesh Kumar Nagpal v. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930] . It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any



time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.”

11. For the aforesaid reasons, we find no merit in the review petition, which is, along with the pending application, dismissed, making it clear that since we have considered the Review Petition on merits, we have not delved into the reasons furnished for condonation of delay.

(REKHA PALLI)
JUDGE

(SHALINDER KAUR)
JUDGE

JULY 19, 2024/sr