

\$~11.

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

+ W.P.(C) 7889/2018 and CM APPL. 30260/2018

INDIAN COUNCIL OF AGRICULTURAL  
RESEARCH (ICAR) & ORS

..... Petitioners

Through: Mr. Gagan Mathur & Mr. Varun  
Kumar, Advocates.

versus

ROHTASH

..... Respondent

Through: Mr. Vishal Chaudhary & Ms. Supriya  
Chaudhary, Advocates along with  
respondent in person.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**  
**18.02.2019**

%

The petitioner Indian Council of Agricultural Research assails the order dated 26.10.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No. 758/2016 preferred by the respondent. The Tribunal has allowed the said Original Application in the peculiar circumstances of the case and has further directed that the respondent may make appropriate fresh representation seeking compassionate appointment by duly enclosing the certificates of the essential qualification within four weeks from the date of receipt of a certified copy of the order and on receipt of the same, the petitioner has been

directed to consider the case of applicant/ respondent for fresh appointment on compassionate grounds sympathetically in the regular Pay Band, as per the rules, within twelve weeks thereof.

The respondent's father died in harness as a Group-D employee while serving with the petitioner. A representation was made on his behalf to seek compassionate appointment. The Screening Committee considered his case and engaged him as a Trainee subject to terms & conditions. He had to acquire the eligibility qualifications within five years in terms of the O.M. dated 03.04.2012 on the subject of "*Compassionate Appointment – Clarification regarding regulation of conditions and admissibility of various allowances after implementation of Sixth CPC recommendation – regarding*". In this office Memorandum, the clarification issued by the DOP&T to the query "*What will be the maximum time period allowed for a person appointed as 'Trainee' to acquire minimum education qualification.*" was "*A person appointed as a 'Trainee' on compassionate grounds has to acquire minimum educational qualifications in 5 years*". Since the respondent did not acquire the eligibility qualification of 10<sup>th</sup> Standard passed within five years of initial appointment, his services were terminated. He consequently approached the Tribunal by preferring the Original Application in the year 2016. The plea of the respondent was that he had acquired the qualification of passing the Secondary School Examination on 09.06.2016, and was delayed in acquiring the qualification by a few months. We are informed that he was 5<sup>th</sup> Class passed at the time when he was initially appointed in the year 2010.

In the aforesaid circumstances, the Tribunal has allowed the Original Application in the aforesaid terms.

The submission of learned counsel for the petitioner is that the O.M. dated 03.04.2012 stipulates the period of five years as the period within which the person appointed as a Trainee on compassionate grounds has to acquire the minimum educational qualifications. He submits that the said period cannot be extended and delay cannot be condoned as there is no such power vested in the petitioner.

Considering the fact that the respondent acquired the qualification on 09.06.2016 and the Tribunal has granted relief to the respondent, in exercise of our discretionary jurisdiction under Article 226 of the Constitution of India, we are not inclined to interfere with the impugned order. At the same time, we make it clear that the impugned order shall not be treated as a precedent in other cases and the same has been clearly passed in the peculiar facts & circumstances of the case.

The petition stands disposed of in the aforesaid terms.

**VIPIN SANGHI, J**

**A. K. CHAWLA, J**

**FEBRUARY 18, 2019**

*B.S. Rohella*