

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.4505 of 2018(O&M)
Reserved on : October 31, 2019
Date of decision: February 17, 2020

Deepak Kumar

...Petitioner

Versus

Central Administrative Tribunal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Shailendra Sharma, Advocate
for the petitioner.

Mr. Sushil Saini, Advocate for
Mr. Rakesh Verma, Advocate for
respondents No.2 to 5.

Harinder Singh Sidhu, J. :

1. This writ petition has been filed against the order dated 15.05.2017 of the Central Administrative Tribunal, Chandigarh Bench, whereby, Original Application No.060/00162/2016 filed by the petitioner was dismissed.

2. The petitioner had filed the Original Application assailing the order dated 01.12.2015 of the respondents, whereby, his request for appointment on compassionate ground was declined.

3. The father of the petitioner was working as Line Inspector in the office of respondent No.5. He died while in service on 09.05.2006

leaving behind Sham Rani - his widow, Sonia Yadav and Dolly Yadav – daughters and Deepak Yadav (petitioner) and Jatinder Yadav his sons.

4. The petitioner submitted an application dated 18.11.2006 to respondent No.4 – the Chief General Manager, Punjab Circle, Chandigarh requesting that he be given appointment on compassionate basis. Vide letter dated 24.02.2007, respondent No.4 forwarded the application to respondent No.3, with a recommendation for his appointment on compassionate ground to a Group-C post. Vide letter dated 29.05.2008 the case of the petitioner was rejected by respondent No.3 on the ground that he did not fulfil the qualifications prescribed in the Policy dated 27.06.2007 which required securing 55 points as per various parameters laid down in the policy dated 27.06.2007. Aggrieved by this rejection, the petitioner filed OA No.849-PB-2010. The said OA was dismissed vide order dated 30.09.2011. Review application filed by the petitioner was also dismissed vide order dated 04.11.2011.

5. He then filed CWP No.4512-CAT of 2013. The contention of the petitioner in the writ petition was that the policy/ clarification 27.06.2007 did not have retrospective application. The petitioner's case for compassionate appointment was required to be considered as per the policy dated 09.10.1998 which was applicable when his father died. That policy did not have any condition of securing certain minimum points on various parameters for consideration for appointment. The writ petition was allowed vide judgment dated 10.09.2015. The order declining compassionate appointment was quashed. It was directed that the case of

the petitioner be considered afresh as per the policy dated 09.10.1998 which was applicable when his father died without adverting to the letter dated 27.06.2007.

6. Thereafter, the respondents passed order dated 01.12.2015 again rejecting the claim of the petitioner for compassionate appointment. He assailed that order by filing OA No.060/00162/2016 which has been dismissed vide the impugned order.

The order dated 01.12.2015 declining the case of the petitioner is reproduced below:-

“In compliance of directions of Hon'ble Punjab & Haryana High Court, Chandigarh in CWP No.4512/2013 dated 10.09.2015 the request of applicant Sh.Deepak Kumar for Compassionate Ground Appointment has been re-considered by the Competent Authority in accordance with the Instructions of Department of Personnel & Training laid down in O.M. No.14014/6/94-Estt(D) dated 09.10.1998 forwarded by DOT, New Delhi letter No.268-206/98-STN-II dated 10.02.1999, prevalent at the time of death of his father with the following observations:

- 1. BSNL is following the scheme of Compassionate Ground Appointment (CGA) issued by DOP&T vide O.M.No.14014/6/94-Estt (D) dated 09.10.1998. the objective of this scheme is to grant Appointment on Compassionate Ground to dependant family member of a BSNL employee dying in harness or who is retired on medical ground, thereby leaving his family in penury and without any means of livelihood, to relieve the family of BSNL employee concerned from*

financial destitution and to help him to get over the emergency. As per the scheme the family living in indigent condition and deserving immediate assistance from financial destitution, is eligible for Compassionate Ground Appointment.

2. In order to ascertain the present economical and financial status of the family a Welfare Officer was deputed to visit the residence of the applicant. But the applicant refused to provide the desired information to the Welfare Officer. Subsequently, on dated 26.11.2015, he submitted a letter to the Welfare Officer wherein he stated that his case should be considered as per already provided documents.

3. The complete case was presented before the Circle Selection Committee constituted to reconsider the said case. The Committee examined all the aspect of the case and given following observations:-

- The family of deceased was living in their own house at Chhoti Baradari, Patiala.

- A family pension of Rs.3650/- + IDA was fixed to the widow of Sh.Gopal Dass, Ex.Line Inspector after the death of Ex.employee. The pension has further been revised @ Rs.8009/- + IDA since 2011 and is being paid regularly.

- Terminal Benefits to the tune of Rs.514608/- were paid to the widow of the deceased.

Keeping in view the regular income in terms of monthly pension and other Terminal Benefits paid to the family, and also limited number of vacancies in CGA

quota which is offered to more needy candidates, the Circle Selection Committee feels that the family of the deceased was not living in indigent condition and not find any merit to recommend the case to offer appointment on compassionate ground to applicant in accordance with the instructions of Department of Personnel & Training laid down in O.M.No.14014/6/94-Extt(D) dated 09.10.1998.

Taking into consideration the facts stated above, and observations of Circle Selection Committee the Competent Authority did not find the case of the applicant justified for appointment on Compassionate Grounds basis. Hence, the request of the applicant is hereby “rejected”.

7. It is clear from the order that to ascertain the economic and financial status of the petitioner a Welfare Officer was deputed to visit him but he refused to provide the desired information to the Welfare Officer. Instead, he wrote a letter dated 26.11.2015 to the Welfare Officer stating that his case should be considered as per the documents already provided. The case was presented before the Circle Selection Committee. The Committee noticed that the family was living in their own house at Patiala. Monthly Family Pension of Rs.3,650/- plus IDA was being given to the widow of deceased Gopal Dass. Terminal benefits to the tune of Rs.5,14,608/- had been paid to her. Taking into account the regular income in terms of monthly pension and also finding that the family of the deceased was not living in indigent condition and the limited number of vacancies available for compassionate appointment the case of the

petitioner was not recommended for compassionate appointment.

8. It is well settled that compassionate appointment cannot be claimed as a matter of right. The whole object of such appointment is to enable the family of the deceased employee to tide over the sudden financial crisis due to untimely death of an earning family member. In this case, the Circle Selection Committee has taken into consideration the financial position of the family and not recommended his case for such appointment. The Ld. Tribunal in its order dismissing the Original Application has adverted to the fact that at the time of consideration of his case in 2015 more than 09 years had passed since the death of his father.

9. We find no infirmity in the impugned order declining the case of the petitioner for compassionate appointment and the order of the Tribunal dismissing his OA. The father of the petitioner died in 2006. By now, more than 13 years have passed since then. Directing compassionate appointment at this late stage would be against the very objective of such appointment.

10. Accordingly, the petition is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

February 17, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No