

DL-4

19.07.2024
Court No.26
Bench ID-266046
(AD)
(Disposed of)

MAT 141 of 2013
With
IA No.: CAN 1 of 2013 (Old No.: CAN 10628 of 2013)
IA No.: CAN 2 of 2014 (Old No.: CAN 2305 of 2014)
Babin Patra
Vs.
Union of India & Ors.

Mr. K.B.S. Mahapatra
... for the appellant
Mr. Bhjudeb Chatterjee
... for the respondents

1. Appeal is directed against an order dated September 17, 2012 passed in W.P. 14593(W) of 2012.
2. By the impugned order, the learned Single Judge dismissed the writ petition.
3. Appellant before us was the writ petitioner. Appellant approached the Court assailing an order of rejection of the prayer for compassionate appointment.
4. Father of the appellant died-in-harness on June 17, 1994. An application for compassionate appointment was made on July 15, 1994. It was rejected on November 2, 1994. This compassionate appoinment application and rejection related to widow of the deceased. Thereafter, the son of the deceased on attaining majority applied for grant of compassionate appointment. Such request was rejected by the order dated June 11, 1999 of the authorities. This order of rejection dated June 11, 1999 was

assailed in the writ petition which resulted in the impugned order.

5. Parties before us are governed by Instructions Regarding Appointment On Compassionate Grounds : Additional Instructions dated September 24/25 September, 2007 issued by Director General, Central Industrial Security Force, Ministry of Home Affairs. The relevant portion of such instructions are as follows:

**“(B) REQUEST FOR CONSIDERING WARDS
ON ATTAINING 18 YEARS (beyond 5 years)**

We have been receiving applications where the widow has requested that her ward be considered for compassionate appointment on attaining the age of 18 years which would happen at a future date beyond five years from the date of death/retirement on medical grounds. As per our present policy guidelines such cases to be considered only if the ward attains the age of 18 years within five years of the date of death/retirement on medical ground of Government Servant (Para -3 (A) (v) of Circular under reference).

It is now decided that such cases may be considered beyond 05 years subject to the following:

- i) The request is initially made within one year of the death/retirement on medical grounds of the CISF personnel, for cases after the issue of this Circular. This criteria need not be insisted on for old cases.*

- ii) The widow of the deceased employee should not have re-married.*
- iii) The benefit of compassionate appointment should not have been given at any time to any other member of the family.*
- iv) Another request is made at the time of the ward attaining the requisite age.*
- v) There has been no change in the financial condition of the dependents and the situation still warrants compassionate appointment.*

The examination and processing of such cases will be on similar lines as for belated cases i.e. more than 5 years old.

In such case the individual making request initially could be informed that:-

- a) To apply when the ward attains requisite age.*
- b) The acceptance of application does not guarantee compassionate appointment.*
- c) That the request will be subject to the availability of vacancies and policy and guidelines in vogue in future.*
- d) Intimation about such cases should be given to the Zone, Sector and FHQrs.*

Para 3 (A) (v) of the Circulars No.21/2005/R&S stands modified to this effect, other instructions issued will remain unchanged.”

6. The CISF Circular NO.11/2007/R&S which is set out in the preceding paragraph contemplates consideration of request of wards “on attaining 18 years (beyond five years)” of date of death. It prescribes a methodology of considering such applications.
7. The application at the behest of the applicant was required to be considered in accordance with the Circular No.11/2007/R&S dated September 24/25, 2007. The order of rejection dated May 3, 2012 not only does not refer to such Circular but also does not exhibit any ground so as to establish that the application for compassionate appointment was considered in light of the subject Circular.
8. In such circumstances, the decision of the authorities dated May 3, 2012 rejecting the prayer for compassionate appointment is set aside. Consequently, the impugned order is also set aside.
9. **MAT 141 of 2013** along with all connected applications are disposed of by directing the authorities to consider the application for grant of compassionate appointment made by the appellant in light of the governing law including the Circular being CISF Circular No.11/2007/R&S, as expeditiously as possible and preferably within a period of six weeks from

the date of communication of this order to them.

10. Needless to say, the authorities will afford a reasonable opportunity of hearing to the appellant and will pass a reasoned order and communicate the same to the appellant thereafter.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)