



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 601/2020

Reserved on 01.04.2024
Pronounced on 10.04.2024

Hon'ble Dr. Chhabilendra Roul, Member (A)

1. KISHORE DHAKATE
S/o Late Sudhakar Dhakate



-Applicant

(By Advocate : Mr. Avnish Singh with Ms. Kanchan)

Versus

1. SECRETARY,
Department of Agriculture & Cooperation,
MINISTRY OF AGRICULTURE AND FARMERS WELFARE,
Government of India, Krishi Bhawan,
Dr, Rajendra Prasad Road,
New-Delhi-110001.
2. JOINT SECRETARY,
Department of Agriculture & Cooperation,
MINISTRY OF AGRICULTURE AND FARMERS WELFARE,
Government of India, Krishi Bhawan,
Dr, Rajendra Prasad Road, New-Delhi-110001.
3. UNDER SECRETARY(E-III),
Department of Agriculture & Cooperation,
MINISTRY OF AGRICULTURE AND FARMERS WELFARE,
Government of India, Krishi Bhawan,
Dr, Rajendra Prasad Road, New-Delhi-110001.

-Respondents

(By Advocate: Mr. Ranjan Tyagi)

ORDER

Present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“1. To pass an order directing the Respondents to provide immediate assistance of Compassionate Appointment to applicant on regular basis under Compassionate Appointment, as per the primary objective of the Scheme of Compassionate Appointment issued by the 'DoPT vide its Office Memorandum No. 14014/6/94-Estt (D), dated 9th October, 1998 and very much reiterated the same time to time vide its subsequent O.Ms.

2. To pass an order directing the Departmental Standing Committee of the Respondents to recommend the name of the applicant under the category of Compassionate Appointment in accordance with directions issued by the DoPT, against the vacancy fall vacant due to death of Applicant's father/ Late Sudhakar Dhikate in died in harness;

3. To pass such other and further order (s) as this Hon'ble Tribunal deem fit and proper in the circumstances of the case.”

2. The brief facts of the case are that the applicant's father was initially appointed to the post of Assistant and raised to the rank of Section Officer. At the time of his unfortunate death, while in service on 02.08.2015, he was a Section Officer (Group B Gazetted) in pay band of Rs. 9300 to 34000) with Grade pay of Rs. 4800. The applicant submitted his first representation on 15.10.2015 which was followed by subsequent representations



dated 12.12.2017, 24.01.2018 and 04.05.2018. The respondents have not given any response to the representations filed by the applicant. Being aggrieved he filed OA No. 2031/2018 wherein this Tribunal has passed the following order :-

“4. From the above, it is clear that the respondents Ministry of Agriculture Cooperation & Farmers Welfare is preparing to fill one post of MTS on compassionate basis and therefore decided that all the applications for compassionate appointment pending in this Department will be considered afresh as shown from letter No. 12012/1/2018-E.III 22.05.2018 issued by the respondents. Hence, in view of the same, the respondents are directed to take up the matter of compassionate appointment of the applicant along with the others and complete all the formalities required as per the Scheme of Compassionate Appointment within 60 days of receipt of a copy of this order and communicate their final decision so taken to the applicant within 30 days from the date of the decision of the Screening Committee.”

2.1 In pursuance to the aforequoted direction given by this Tribunal, the respondents passed a detailed order dated 11.12.2023. The respondents rejected the claim of the applicant stating the following:-

“2. Copy of CAT's order dated 20.8.2019 was submitted by you on 17.9.2019 in DAC&FW. In compliance of the directions in the said case, your application seeking appointment on compassionate grounds were placed before a duly constituted Departmental Standing Committee set up to screen the applications. The Departmental Standing Committee in its meeting held on 11.11.2019 undertook detail screening of the applications submitted for compassionate appointment.

3. The Departmental Standing Committee after considering all material facts on records has not



recommended your case for appointment on compassionate appointment.”

Being aggrieved the applicant has filed the present OA seeking the aforementioned reliefs.

2.2 Learned counsel for the applicant states that the applicant deserves to be given appointment on compassionate ground because of the financial distress being faced by the family of the applicant. At the time of the death of his father, there were not much of financial assets left by his father. There was no earning member, at the time of death of the deceased employee. Present applicant was a student of 12th class. Because of the financial situation of the applicant, he deserves to be given appointment on compassionate ground. In support of his arguments, he cited DOPT OM dated 16.01.2013 which is specifically states that

“the Object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.”

2.3 Learned counsel for the applicant further states that though there were vacancies of year 2019, the applicant was never considered for compassionate appointment against the vacancies of the year 2018-19. He further states that the applicant has



vested right to get the compassionate appointment after completion of his education.

3. Per contra, learned counsel for respondents referred to the counter affidavit filed by the respondents. He submits that as per the DOPT guidelines only 5% of the vacancies falling under direct recruitment is earmarked for compassionate appointment. The applicant has submitted applications for compassionate appointment on 12.12.2017, 26.01.2018 and 04.05.2018. On each occasion the applicant's case was considered against such vacancies. At the time of considering the case of the applicant, particularly in the year 2017-18, there were significant number of other applicants for only one vacancy of MTS. He referred to the short affidavit filed by the respondents on 31.10.2023 which reads as under:-

“1. The subject matter of the O.A. is governed by the guidelines issued by the Department of Personnel & Training from time to time on 'Compassionate appointment under Central Government'.

2. This department has initiated the process considering cases for appointment on compassionate ground for the vacancy years 2018, 2019 and 2020.

3. Financial and occupational status of the applicants/dependents was called from 52 dependents/legal heirs of deceased officials as per the prescribed proforma. In this regard, Communications dated 10.2.2023 (Annexure-I) and reminders dated 01.05.2023 (Annexure-II), 19.07.2023 (Annexure-III) and 15.9.2023 (Annexure-IV) were issued seeking required information.



4. Sh Kishore Dhakate s/o Lt. Sh Sudhakar Dhakate submitted his dated 12.05.2023 (Annexure-V) in response to this Department's 4. application communication dated 1.5.2023.

5. As Information from all the applicants/dependents have not been received, this Department again issued a reminder dated 25.10.2023 (Annexure-VI) to give another opportunity for submission of their respective details, so that no one is left out.

6. On receipt of the present financial/occupational status of all applicants/dependents, this Department would be in a position to consider the case of Sh Kishore Dhakate s/o Lt. Sh Sudhakar Dhakate, along with all other applicants, as per extant rules.”

3.1 Referring to the short affidavit filed by the respondents, learned counsel for the respondents categorically states that though the case of the compassionate appointment of the applicant has been considered against the previous vacancies and rejected because there were better deserving candidates against the limited vacancies who were appointed, the case of the present applicant will be considered against future vacancies as per the rules. He further states that the family of the deceased employee have got significant amount of financial benefits because the applicant's father was a Section Officer. They have received the death cum gratuity as well as pension amount which is nearly Rs. 50,000/. In view of this, it cannot be stated that the family of the applicant is suffering from financial distress and presently the applicant is engaged with the private employment and earning more than 50,000/- per month.



4. In rejoinder, learned counsel for applicant states that the claim of the applicant starts from at the time his father died in 2015 and he submitted applications immediately after death of his father. He should have been considered against the vacancies which arose immediately after death of the father of the applicant. Hence the stand taken by the respondents that applicant's case will be considered on against future vacancies is not tenable. He further submits he has not having any private job.

4. Heard learned counsels for the parties carefully and perused the records of the case thoroughly.

4.1 In the instant case, the sole contention of the learned counsel for the applicant for claiming the relief by the applicant is based on a misconceived notion that ward of the deceased government servant has a vested right to be appointed on compassionate ground. Though the learned counsel for the applicant has not said this in so many words but his entire argument is based on such premise. This is amply born out from the fact that the applicant was studying in class 12th at the time of death of his father in while in service. On 05.08.2015, the applicant's mother submitted the first application for compassionate appointment for the applicant followed by representations on 15.10.2015 and reminders on 12.12.2017, 24.01.2018 & 04.05.2018. The applicant approached this Tribunal. The Tribunal directed the respondents to consider



the case of the applicant for compassionate appointment within 60 days by following due procedure as per the DOP&T OM dated 16.01.2013 and recommendations of the Screening Committee.

The respondents in pursuance to the said order of the Tribunal submitted the case of the applicant before Departmental Standing Committee to screen the applicant for compassionate appointment.

The said Committee in its meeting dated 11.11.2019 considered all material facts and records, but it did not recommend the case of the applicant for appointment on compassionate ground. The applicant has not challenged the said order dated 11.12.2019.

Instead, he has prayed in his prayer clause just for compassionate appointment based on DOPT OM dated 09.10.1998. The other averment by the learned counsel for the applicant is that the family of the applicant is suffering from financial penury is not tenable.

The guiding principles for compassionate appointment has been issued by the DOPT in its OM dated 16.01.2013. Subsequently, the

Hon'ble Apex Court in the matter of ***State of West Bengal vs.***

Debabrata Tiwari & Ors etc. in Civil Appeal No. 8842-8855

of 2022 decided on 03.03.2023 vide this judgment, the Apex

Court has framed the guidelines for compassionate appointment.

For better appreciation the same is reproduced here:-

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:-



i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood it only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

7.3. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis due to the death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be in a position to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Having regard to such an object, it would be of no avail to grant compassionate appointment to the dependants of the deceased employee, after the crisis which arose on account of death of a bread-winner, has been overcome. Thus, there



is also a compelling need to act with a sense of immediacy in matters concerning compassionate appointment because on failure to do so, the object of the scheme of compassionate would be frustrated. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and thus lose its significance and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out for consideration.

7.4. As noted above, the sine qua non for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter.”

4.2 From the above, it is evidence that ‘immediate financial penury’ of the family of the deceased government employees is the guiding principle for offering compassionate appointment to the deserving and eligible member of the family of the deceased employee. Passage of time, and when any family member is still a student pursuing to improve his/her education qualification and expects that on a future date, he/she will be offered compassionate appointment will not qualify to be considered under the fundamental principle of ‘immediate financial penury’. It implies that the family is financially comfortable and it wants to wait till the completion of reasonable education by the wards of the deceased government servant so as to avail compassionate



appointment on a future date. The fact that family of the deceased employee was not suffering 'immediate financial penury' is borne out by the fact that the father of the applicant was a Section Officer and his family was drawing significant amount of pension apart from other lump sum pensionary benefits. It has been admitted by both the counsels during the arguments that the present quantum of pension is more than Rs. 50,000/- per month. Hence, the family cannot be thought of suffering from financial penury. Respondents have considered the facts and circumstances of the case as well as financial position of the family. I find no reason to interfere in the administrative decision as there is hardly scope of judicial review in the instant case. This Tribunal cannot substitute its own view regarding the financial penury of the family which has been found by the Screening Committee of the respondents.

4.3 In view of above, the present OA lacks merit and hence dismissed. No order as to costs.

(Dr. Chhabilendra Roul)
Member (A)

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