

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 432 of 2017****Thursday, this the 3<sup>rd</sup> day of February, 2022****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Santosh Kumar  
S/o Late Ram Karan @ Ram Phera  
R/o Village – Pelagpurwa, Post – Huzoorpur,  
District – Bahraich

**.... Applicant**

Ld. Counsel for the Applicant : **Shri Bhanu Pratap Singh Chauhan,**  
Advocate

**Versus**

1. The Union of India through the Secretary, Department of Defence, New Delhi.
2. The Secretary, Department of Personnel & Training, Government of India, New Delhi.
3. The Chief of the Army Staff, Army H.Q., Defence H.Q. New Delhi.
4. The Officer General Commanding in Chief, Central Command, Lucknow.
5. The Company Commander, BEG & Centre, Pin – 900477, C/o 56 APO.

**... Respondents**

Ld. Counsel for the Respondents : **Shri Arun Kumar Sahu,**  
Govt Standing Counsel

**ORDER (Oral)**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

*(a) To set aside the item of executive instruction dated 09.02.2015 issued by the respondent no. 5 and consequential order dated 05.03.2015 passed by respondent no. 5 respectively, as contained to Annexure No. 1 and 2 of this O.A.*

*(b) To direct the respondents to provide the benefit of compassionate appointment to applicant thereby re-considering his case in the light of procedure/recommendations of respondent No. 5 made earlier, before passing of the instructions/orders in question.*

*(c) To pass such orders which deems fit and proper under the circumstances of the case.*

*(d) To award the cost of the application in favour of the applicant from respondents.”*

2. Brief facts of the case giving rise to this application are that father of the applicant, No. 1578677W Hav Ram Karan who was serving soldier of the Indian Army, died in harness on 29.03.2011. The applicant was wholly dependent on his father. The applicant having civil qualification of Intermediate submitted an application to Respondent No. 5 for compassionate appointment on any suitable post as per his qualification and rules but the same has not yet been provided to the applicant. Being aggrieved, the applicant has filed the present Original Application for compassionate appointment.

3. Learned counsel for the applicant submitted that applicant being dependent on his father having civil qualification of Intermediate submitted application for compassionate appointment on dying in harness scheme to Respondent No. 5 for any suitable post as per his qualification and rules. The respondent No. 5 asked certain original documents and certificates for employment vide letter dated 14.04.2015 and 17.10.2015. Thereafter, respondent No. 5 advised to applicant to

contact Headquarters at New Delhi for assistance but no assistance was made to the applicant. The applicant also submitted a representation to respondent No. 1 for compassionate appointment.

4. Learned counsel for the applicant further submitted that the applicant was eligible and suitable for the post of L.D.C. in all respects under the provisions of the relevant recruitment rules but his case was then misunderstood and not considered by the respondents. He pleaded to provide compassionate appointment to the applicant under the Dying in Harness scheme framed by the Government according to his qualification.

5. Learned counsel for the respondents submitted that applicant submitted a personal application dated 19.01.2015 for compassionate appointment in place of his father. The applicant was not eligible for attending the Unit Headquarter Quota Recruitment Rally conducted by BEG Centre as the applicant was found to be overage. At that time no vacancy for compassionate appointment was available and a reply to this effect was sent to the applicant vide this office letter dated 03.03.2015. The applicant sent another application dated nil but due to non availability of documents, BEG Centre again instructed the applicant to submit his documents vide their office letter dated 17.10.2015. On receipt of documents, the same were scrutinized, however, the applicant was not found to be fulfilling the criteria due to being overage.

6. We have heard learned counsel for the parties and perused the records.

7. It being well settled that appointments on compassionate ground are granted with a view to relieve the family of the economic distress being faced on account of sudden death of the bread earner and is an exception to the principles of equality of opportunity in public appointment guaranteed by Articles 14 & 16 of the Constitution of India and thus no exception can be created and the rules are to be strictly construed.

8. We observe that respondents have denied compassionate appointment to the applicant on the ground of being over-age. However, we find that no such request for recruitment in Army was made by the applicant in his applications submitted to the respondents. It appears that respondent No. 5/authorities concerned misunderstood request of the applicant taking it for recruitment in the Army and therefore, applicant was asked to submit his educational certificates, service documents of his father and relation certificate issued by concerned Record Office for assessing suitability of job vide their letter dated 14.04.2015, whereas applicant has applied for compassionate appointment according to his qualification and prevailing rules on the subject.

9. We also find that applicant was overage for recruitment in Army for which he did not apply but as far as the posts of defence civilians on compassionate ground under the Dying in Harness scheme framed by the Central Government (Ministry of Defence) are concerned, the applicant has not become overage.

10. In view of above, we disposed off the Original Application finally with direction to the respondents to consider request of the applicant to provide a compassionate appointment according to his qualification and eligibility/service conditions. Let necessary exercise be done within a period of six months from the date of communication of present order. Applicant is also directed to provide required documents to the respondents, if asked, for completion of documentation/formalities for processing of his case for compassionate appointment.

11. No order as to costs.

12. Pending Misc. Application(s), if any, shall be treated to have been disposed off.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

Dated : 3<sup>rd</sup> February, 2022  
SB

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**