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COMPOSITION OF THE COMMITTEE ON PETITIONS

(2019-20)

Dr. Virendra Kumar - *Chairperson*

MEMBERS

2. Shri Anto Antony
3. Shri Sukhbir Singh Badal
4. Shri Harish Dwivedi
5. Shri P. Raveendranath Kumar
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13. Shri Sushil Kumar Singh
14. Shri Prabhubhai Nagarbhai Vasava
15. Shri Rajan Vichare

SECRETARIAT

1. Shri T.G. Chandrasekhar - Joint Secretary
2. Shri Raju Srivastava - Director
3. Shri G. C. Dobhal - Additional Director
4. Shri Harish Kumar Sethi - Executive Officer

**NINTH REPORT OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Ninth Report (Seventeenth Lok Sabha) of the Committee to the House on the Representation of Shri Shyamal Kumar Das regarding inordinate delay in his appointment in Airports Authority of India, Kolkata on compassionate grounds and other important issues related therewith.

2. The Committee considered and adopted the draft Ninth Report at their sitting held on 20 September, 2020.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

**DR. VIRENDRA KUMAR,
Chairperson,
Committee on Petitions.**

**20 September, 2020
29 Bhadrapada, 1942 (Saka)**

REPORT

REPRESENTATION OF SHRI SHYAMAL KUMAR DAS REGARDING INORDINATE DELAY IN HIS APPOINTMENT IN AIRPORTS AUTHORITY OF INDIA, KOLKATA ON COMPASSIONATE GROUNDS AND OTHER IMPORTANT ISSUES RELATED THEREWITH.

Shri Shyamal Kumar Das had forwarded a representation regarding inordinate delay in his appointment in Airports Authority of India, Kolkata on compassionate grounds and other important issues related therewith.

2. The representationist, in his representation, *inter-alia* stated that in spite of orders of Hon'ble Supreme Court dated 5th October, 2010, he is yet to get appointment in the Airports Authority of India, Kolkata on compassionate grounds. Therefore, he requested to look into the matter for his appointment in the Airports Authority of India, Kolkata on compassionate grounds as per the orders of the Hon'ble Supreme Court.

3. The Committee on Petitions took up the representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representation received from Shri Shyamal Kumar Das was forwarded to the Ministry of Civil Aviation for furnishing their initial comments on the issues raised therein.

4. In response thereto, the Ministry of Civil Aviation *vide* their communication dated 22 November, 2019, furnished as under:-

"Shri Shyamal Kumar Das has already been informed by the Airports Authority of India vide their letters dated 10.7.2012 and 30.8.2019 that his name has been included in the list of 'D' category persons waiting for deployment under the Employment Assistance Scheme and he will be appointed on compassionate grounds as and when his turn comes, without considering his age."

5. On being asked by the Committee to furnish all the relevant details of the case of appointment of Shri Shyamal Kumar Das on compassionate grounds in the Airports Authority of India (AAI) along with the action taken, till date as per the file notings of the AAI, the Ministry of Civil Aviation, in a written reply, submitted:-

- *"Late Shri Sushil Kumar Das, Ex-Assistant Mechanic in O/o Regional Executive Director, Eastern Region, expired on 6.2.1988 at the age of 55 years.*
- *Late Shri Sushil Kumar Das was a bachelor at the time of his death.*
- *As per the nomination, his terminal benefits were paid to the petitioner, his nephew, Shri Shyamal Kumar Das.*
- *Shri Shyamal Kumar Das, nephew of Late Shri Sushil Kumar Das, applied for the job under Employment Assistance Scheme in Airports Authority of India.*
- *The case was considered in the Employment Assistance Committee (EAC) meeting held on 14.06.1989, but was not recommended keeping in view of the fact that the applicant was not 'Dependent' as per the Guidelines of the Scheme.*
- *Aggrieved by the decision of AAI, Shri Shyamal Kumar Das filed writ petition in the High Court of Kolkata for compassionate appointment. The Hon'ble High Court ordered to consider the case of the appellant afresh on the basis of application made by him in the year 1989 and 1992 in the light of the scheme as was in force on the date of making such application, namely, the 1978 scheme.*
- *Again EAC meeting was held on 16/17.06.2005 and 09.11.2005 as per the direction of Hon'ble High Court direction to consider the case. It was observed that Late Shri Sushil Kumar Das was a bachelor at the time of death and Shri Shyamal Kumar Das is a nephew of the deceased employee and was not wholly dependent on him at the time of his death. Thus, the case to provide compassionate appointment does not fall within the provisions of the scheme of Employment Assistance.*
- *It is submitted that Compassionate Appointment cannot be claimed as a matter of right. Therefore, cannot be any rightful claim for compassionate appointment. Thus, the case of Shri Shyamal Kumar Das was rejected on justified grounds.*
- *Hon'ble High Court of Kolkata was not satisfied with the decision of the Employment Assistance Committee of the CHQ on 09.11.2005 and issued the contempt rule.*
- *Therefore, AAI filed the Special Leave Petition (SLP) before the Hon'ble Supreme Court. In this regard, the Hon'ble Supreme Court passed the order to*

employ Shri Shyamal Kumar Das in a suitable post (Group-'D') after surplus employees (as and when his turn comes) are redeployed.

- *As per the directions of Hon'ble Supreme Court, the Petitioner was informed, vide letter dated 09.07.2012 that the name of Shri Shyamal Kumar Das has been included in the list of Group 'D' category persons waiting for deployment under the Employment Assistance Scheme. As and when turn comes, he will be appointed on compassionate ground without considering age.*
- *It is relevant to mention here that approx. 4000 employees were reverted back to AAI on account of privatisation of Delhi and Mumbai Airports (DIAL/MIAL). All such employees have still not been redeployed gainfully. On account of this, no appointments were made in AAI on compassionate grounds, from the year 2008.*
- *It is also to bring to kind attention that Airports Authority of India is likely to lease out six more Airports under the Public Private Partnership (PPP) model in the ensuing months. This is likely to result in adding even more number of surplus employees which would need to be redeployed gainfully, in addition to 4000 employees who were reverted back to AAI on account of privatisation of Delhi and Mumbai airports.*
- *Further, Hon'ble Supreme Court of India (in the case of Union of India & Anr. vs. Shashank Goswami in Civil Appeal Nos. 6224 of 2008) rules that if the compensation on death of an employee is above 5 lakhs in case of Group B above, 3 lakhs in case of Group C and 2 lakhs in case of Group D then no case is made out for appointment on Compassionate grounds."*

6. When asked by the Committee to furnish a copy of the internal Guidelines framed by the AAI and whether the cases of compassionate appointment in the Airports Authority of India are regulated as per instructions issued by the Department of Personnel and Training Office Memorandum No.14014/6/94-Estt.(D) dated 9.10.1998 as amended from time to time or the AAI have their own internal Guidelines framed for the purpose, the Ministry of Civil Aviation, in a written reply, submitted:-

*"The Compassionate appointments made in the Airports Authority of India was on the basis of internal Guidelines framed for the purpose. A copy of the said Guidelines are attached herewith as **Annexure-A.**"*

7. The Committee further desired to know as to whether the Ministry of Civil Aviation are aware of the fact that various instructions issued by the Department of Personnel and Training on Compassionate Appointment have been consolidated *vide* OM No. 14014/02/2012-Estt.(D) dated 16.01.2013 and as per these instructions, upto a maximum of 5% of direct recruitment vacancies in a year in Group 'C' can be filled up by Compassionate Appointment and also to furnish a copy of consolidated instructions issued by the DoPT, the Ministry of Civil Aviation, in a written reply, submitted:-

*"A copy of Department of Personnel and Training OM No. 14014/02/2012-Estt.(D) dated 16.01.2013 is attached as **Annexure-B**".*

8. The Committee further desired to know as to whether the Ministry of Civil Aviation are also aware of the fact that candidature of an applicant for appointment on compassionate grounds is invariably adjudged on the basis of a 'weightage scale' consisting of various parameters like indigent condition of the family, total number of dependents, minor children, marriage of daughter, movable and immovable property, financial condition, age of the applicant, etc., and whether any apparatus of such 'weightage scale' for identifying the most deserving applicants for compassionate appointment has been formulated by the Airports Authority of India and also to furnish all the relevant details in this regard, the Ministry of Civil Aviation, in a written reply, submitted:-

"The Compassionate appointments were regulated in Airports Authority of India on the basis of internal guidelines framed for the purpose.

The guidelines include the 'Weightage Scale' process on which the Employment Assistance Committee recommends the name of the dependents of deceased employee for employment who are scoring minimum 60% weightage.

The 'Weightage Scale' process includes:-

- *Gravity of Distress*
 - *Received terminal benefits.*
 - *Age of the deceased employee*
 - *Number of dependents*
- *Eligibility for Employment*
 - *Request for employment*

- Age of applicant
- Qualification
- Additional/higher education qualification of the applicant
- Other factors considering Compassionate appointments
- Recommendation of the Committee

A copy of the said Guidelines are attached herewith as **Annexure-A**".

9. On being asked by the Committee to furnish the details of further consequential action taken by the Airports Authority of India for expediting the appointment of Shri Shyamal Kumar Das on compassionate grounds, after the pronouncement of judgment by the Hon'ble Supreme Court of India in October, 2010 [Civil Appeal No. 3280 of 2007], the Ministry of Civil Aviation, in a written reply, submitted:-

"As per the directions of Hon'ble Supreme Court, the Petitioner was informed, vide letter dated 09.07.2012, that the name of Shri Shyamal Kumar Das has been included in the list of Group 'D' category persons waiting for deployment under the Employment Assistance Scheme. As and when turn comes, he will be appointed on compassionate ground without considering age.

On account of privatisation of Delhi and Mumbai Airports (DIAL/MIAL), approximately 4000 employees were reverted back to AAI and all such employees have still not been redeployed gainfully. In view of this, no appointments were made in AAI on compassionate grounds since 2008.

It is also like to bring to your kind attention that Airports Authority of India is likely to lease out six more Airports under the Public Private Partnership (PPP) model in the ensuing months. This is likely to result in adding even more number of surplus employees which would need to be redeployed gainfully.

Further, Hon'ble Supreme Court of India (in the case of Union of India & Anr. Vs Shashank Goswami in Civil Appeal Nos. 6224 of 2008) ruled that if the compensation on death of an employee is above Rs.5 lakhs in case of Group B, above Rs.3 lakhs in case of Group C and Rs.2 lakhs in case of Group D, then no case is made out for appointment on Compassionate grounds.

*It is also relevant to mention here that the issue of Compassionate Appointment in AAI was placed before the AAI Board in the year 2018 and after detailed deliberation, it was decided to discontinue Compassionate appointments in AAI with immediate effect. Copy of the circular is attached at **Annexure-C.**"*

10. On being specifically asked by the Committee to furnish the post-wise and year-wise details of appointments made by the Airports Authority of India on compassionate grounds and pending appointments on compassionate grounds, the Ministry of Civil Aviation, had not furnished any information and instead tried to justify their position as under:-

"On account of privatisation of Delhi and Mumbai Airports (DIAL/MIAL), approximately 4000 employees were reverted back to AAI and all such employees have still not been redeployed gainfully. In view of this, no appointments were made in AAI on compassionate grounds since 2008.

It is also to bring to kind attention that Airports Authority of India is likely to lease out six more Airports under the Public Private Partnership (PPP) model in the ensuing months. This is likely to result in adding even more number of surplus employees which would need to be redeployed gainfully.

Further, Hon'ble Supreme Court of India (in the case of Union of India & Anr. Vs Shashank Goswami in Civil Appeal Nos. 6224 of 2008) ruled that if the compensation on death of an employee is above 5 lakhs in case of Group B above, 3 lakhs in case of Group C and 2 lakhs in case of Group D then no case is made out for appointment on Compassionate grounds.

It is also relevant to mention here that the issue of Compassionate Appointment in AAI was placed before the AAI Board in the year 2018 and after detailed deliberation, it was decided to discontinue Compassionate appointments in AAI with immediate effect."

11. The Committee, thereafter, asked the Ministry of Civil Aviation to furnish the names of family member of the ex-employee appointed in the Airports Authority of India on compassionate grounds, the Ministry of Civil Aviation, had submitted that no Compassionate Appointment was made in the Airports Authority of India since 2008.

12. On being categorically asked by the Committee as to whether the Ministry of Civil Aviation are aware that in the case of Shri Umesh Kumar Nagpal vs. State of Haryana and

others (JT 1994(3) S.C. 525], the Hon'ble Supreme Court of India vide order dated 4th May, 1994, had observed that as a rule, appointments in public services should be made strictly on the basis of open invitation of applications and merit, however, there are some exceptions which are carved out in the interest of justice and to meet certain contingencies, compassionate appointments is one such exception, the Ministry of Civil Aviation had reiterated the position by stating that no Compassionate Appointment was made in the Airports Authority of India since 2008.

13. The Committee, thereafter, asked the Ministry of Civil Aviation to furnish their detailed comments about the long pending request(s) from the family member(s) of the ex-employees including the case of Shri Shyamal Kumar Das for appointment in the Airports Authority of India on compassionate grounds, the Ministry of Civil Aviation, in a written reply, submitted:-

"On account of privatisation of Delhi and Mumbai Airports (DIAL / MIAL), approximately 4000 employees were reverted back to AAI and all such employees have still not been redeployed gainfully. In view of this, no appointments were made in AAI on compassionate grounds since 2008.

It is also to bring to kind attention that Airports Authority of India is likely to lease out six more Airports under the Public Private Partnership (PPP) model in the ensuing months. This is likely to result in adding even more number of surplus employees which would need to be redeployed gainfully.

Further, Hon'ble Supreme Court of India (in the case of Union of India & Anr. Vs Shashank Goswami in Civil Appeal Nos. 6224 of 2008) states that if the compensation on death of an employee is above 5 lakhs in case of Group B above, 3 lakhs in case of Group C and 2 lakhs in case of Group D then no case is made out for appointment on Compassionate grounds.

It is also relevant to mention here that the issue of Compassionate Appointment in AAI was placed before the AAI Board in the year 2018 and after detailed deliberation, it was decided to discontinue Compassionate appointments in AAI with immediate effect.

However, as and when it is proposed to reopen the cases on compassionate appointment, the case of Shri Shyamal Kumar Das will also be considered."

14. In the matter, the Committee, thereafter, took oral evidence of the representatives of the Ministry of Civil Aviation and Airports Authority of India on 20 January, 2020. During the evidence, the representatives of the Ministry of Civil Aviation along with the Chairman, AAI assured the Committee that the request of Shri Shyamal Kumar Das for appointment in AAI on compassionate grounds would be considered after consulting their Legal Counsel and a report thereon would be submitted to the Committee on Petitions, within a month.

15. The Committee, thereafter, sought clarifications from the Ministry of Civil Aviation and Airports Authority of India on the following aspects:-

- (i) The details of applications for compassionate appointment received in the AAI since 1988, till date.
- (ii) The details of all appointments made by AAI on compassionate grounds, till date.
- (iii) The details of requests for appointment on compassionate grounds pending in AAI, till date.
- (vi) Specific timeline by which all the requests for appointment on compassionate grounds are likely to be considered by AAI.

16. In response thereto, the Ministry of Civil Aviation *vide* their communication dated 29.5.2020, has furnished the following information:-

- (i) Shri Shyamal Kumar Das's name is at Serial Number 48 in the waiting list of persons, waiting for deployment for any post in the Group-D category, and the 47 persons in the waiting list, who are above Shri Das will have to be deployed subject to their willingness and age, only after which, Shri Das can be considered for any vacancy in Group-D category.
- (ii) If any vacancy arises, after Shri Das attains the age of 60 years, which is the age of superannuation in AAI, the order passed by the Hon'ble Supreme Court will not come to his rescue, as it is inherent in the order that the appointment, if any, is subject to the age of superannuation. Thus, it is not open to AAI not to appoint Shri Shyamal Kumar Das.

- (iii) Therefore, the query, as to whether Shri Das can be considered for compassionate appointment, to that extent is redundant.
- (iv) If no vacancy arises in Group-D till next about 05 years, by when Shri Das will attain the age of 60 years, notwithstanding his seniority in the waiting list, Shri Das cannot be given any deployment / employment in AAI.
- (v) Furthermore, assuming any such vacancy arises in the next about 05 years, Shri Das will have to wait for his turn, in as much as 47 persons above him, will be first offered the option before his turn comes.
- (vi) In reply to query that how many such cases of compassionate appointment are pending with AAI, it was submitted that *there are 47 persons in the waiting list and after the Hon'ble Supreme Court Judgment, name of Shri Shyamal Kumar Das was included at Sl. No.48.*
- (vii) In reply to query that how many people have been given appointment on compassionate grounds in AAI since 1988 to till date, it was submitted that *AAI came into existence, w.e.f., 01.04.1995, by an Act of Parliament. From the period 01.04.1995 to 2008, a total of 709 people were given appointments on compassionate grounds.*
- (viii) In reply to query as to whether there are any other matters apart from the case of Shri Shyamal Kumar Das, wherein directions by Courts have been passed and such person has not been given appointment on compassionate grounds, it was submitted that *no such direction was passed by the Hon'ble Court on grant of appointment on compassionate grounds in any case except in the instant case of Shri Shyamal Kumar Das.*

OBSERVATIONS/RECOMMENDATIONS

Issues/grievances related to Compassionate Appointments in Airports Authority of India

17. The Committee undertook detailed examination of the representation of Shri Shyamal Kumar Das, relative of Late Sushil Kumar Das, a deceased employee of the Airports Authority of India, Kolkata regarding inordinate delay in his appointment on compassionate grounds.

18. The Committee note that Shri Sushil Kumar Das, ex-Assistant Mechanic was placed under the Office of Regional Executive Director, Eastern Region of Airports Authority of India, expired on 06.02.1988 at the age of 55 years and he was a bachelor at the time of his death. As per the nomination papers of Late Sushil Kumar Das, his terminal benefits were paid to his nephew Shri Shyamal Kumar Das. Thereafter, Shri Shyamal Kumar Das applied for his appointment on compassionate grounds under the Employment Assistance Scheme in the Airports Authority of India. The case of Shri Shyamal Kumar Das was considered in the Employment Assistance Committee (EAC) meeting held on 14.06.1989, but was not recommended for appointment on compassionate grounds keeping in view of the fact that the applicant was not 'Dependent' on Late Sushil Kumar Das, the deceased employee, as per the Guidelines of the Employment Assistance Scheme of the Airports Authority of India.

19. The Committee also note that Shri Shyamal Kumar Das, aggrieved by the decision of the Airports Authority of India, filed a Writ Petition in the Calcutta High Court for his appointment in the Airports Authority of India on compassionate grounds. The Calcutta High Court ordered to consider the case of the appellant afresh on the basis of application made by him in the year 1989 and 1992 in the light

of the Scheme that was in force on the date of making such application, namely, the Employment Assistance Scheme-1978. As per the directions of the Calcutta High Court, the Employment Assistance Committee meeting(s) were held in the month of June and November 2005, wherein, it was observed that Late Sushil Kumar Das was a bachelor at the time of death and Shri Shyamal Kumar Das is a nephew of the deceased employee and since, Shri Shyamal Kumar Das was not wholly dependent on him at the time of his death, therefore, the case to provide him compassionate appointment does not fall within the provisions of the Scheme of Employment Assistance. Thereafter, the case of Shri Shyamal Kumar Das was rejected on the grounds that the compassionate appointment cannot be claimed by him as a matter of right.

20. The Committee further note that the Calcutta High Court was not satisfied with the decision of the Employment Assistance Committee of the CHQ on 09.11.2005 and issued the contempt notice. In response thereto, the Airports Authority of India filed a Special Leave Petition before the Supreme Court, wherein, the Supreme Court *vide* its verdict passed on 5 October, 2010 had *inter-alia* directed the Appellants (i.e., the Airports Authority of India) to include the name of Shri Shyamal Kumar Das in the list of Group 'D' category persons waiting for deployment under the Employment Assistance Scheme and as and when his turn comes, Shri Shyamal Kumar Das be appointed on compassionate grounds in any suitable post without considering his age. Shri Shyamal Kumar Das was informed, accordingly, by the Airports Authority of India *vide* their communication dated 9.7.2012 that his name has been included in the list of Group 'D' category persons waiting for appointment under the Employment Assistance Scheme and as and when his turn comes, he will be appointed on compassionate grounds without considering his age.

21. The Committee have also been apprised that the Airports Authority of India came into existence w.e.f., 1.4.1995 by an Act of Parliament, viz., the Airports Authority of India Act, 1994. From the period 1995 to 2008, a total of 709 people were appointed on compassionate grounds and that no compassionate appointment was made in the Airports Authority of India since 2008. The Committee have also been informed that there were 47 persons in the waiting list for compassionate appointments and after the Supreme Court Judgment, dated 5 October, 2012, the name of Shri Shyamal Kumar Das was included at Sl. No.48 in the waiting list of persons waiting for appointment on compassionate grounds for any post in the Group-D category, and that, the names of 47 persons who are above Shri Shyamal Kumar Das in the waiting list in Group-D category, will have to be considered first for appointment subject to their willingness and age.

22. The Committee, after meticulously going through the entire sequence of events relating to the inordinate delay in appointing Shri Shyamal Kumar Das on compassionate grounds in the Airports Authority of India, are surprised to find that inspite of the orders of the Calcutta High Court, the nodal Ministry, i.e., the Ministry of Civil Aviation have neither taken any further consequential action to sympathetically consider the application of Shri Shyamal Kumar Das nor issued any Guidelines/Instructions to resolve the intricate issue of appointments to be made on compassionate grounds in the Airports Authority of India in view of the fact that in case, no vacancy arises in Group 'D' post(s) for the next 5 years, Shri Das would be attaining the age of 60 years, which is the normal age of retirement on attaining the age of superannuation. The Committee, while fully sympathizing with the representationist, feel that it is the travesty of overall mechanism of consideration of person(s)/dependants of the deceased employee(s) for their appointment on

compassionate grounds that even the orders of Hon'ble Supreme Court would not come to the rescue of such aspirants.

23. The Committee are not fully convinced by the averments made by the Ministry of Civil Aviation in dealing with the long pending issue of appointment on compassionate grounds in the Airports Authority of India. The Committee, therefore, strongly feel that the Ministry should resort to some out-of-box policy formulation on this issue and display their readiness to consider giving extra weightage to such persons who are waiting for their turn to be considered for appointment in the Airports Authority of India on compassionate grounds and going to attain the normal age of superannuation in a couple of years. The Committee, therefore, would like to recommend that the Ministry of Civil Aviation should consider all such cases, including that of Shri Shyamal Kumar Das for considering their candidature for appointment in the Airports Authority of India on compassionate grounds without further loss of time. The Committee would like to be apprised of the action taken by the Ministry in this regard.

Review of the decision of the Board of AAI to discontinue Compassionate Appointments in the Airports Authority of India

24. The Ministry of Civil Aviation have informed that the issue of compassionate appointment in the Airports Authority of India was placed before the Board of AAI in the year 2018 and after detailed deliberation, it was decided to discontinue the Scheme of compassionate appointments in the Airports Authority of India with immediate effect.

25. The Committee are also informed of the decision taken by the Board of AAI to discontinue compassionate appointments under the Employment Assistance

Scheme in the 178th Meeting of the Board of the Airports Authority of India from the year 2018 *vide* CHARM Circular No.9/2018 considering the issue of redeployment of Delhi & Mumbai Airports manpower and Delhi Court Order directing gainful deployment of excess manpower of AAI. The Committee note that the Board of AAI, in its 178th Meeting, has *inter-alia* also decided that the social security schemes/ compensation paid to the dependents of the deceased employee in the Airports Authority of India are quite sufficient to meet the family needs of the deceased employee and, thus, resolved to discontinue compassionate appointments in the Airports Authority of India with immediate effect by repealing sub para 13 1(ii) of R&R Guidelines except in the cases where judicial order has attained finality, till date. The Committee wonder if the Board of AAI had ever contemplated how their decision to discontinue the compassionate appointments would affect the subsistence of families/ dependents of deceased employees.

26. The Committee are dismayed to note that when there is a long queue of needy persons who were waiting for the appointment on compassionate grounds for years and years together, how could a Board could arrive at such a decision to discontinue the Scheme of Compassionate Appointment, that too, without consulting the Ministry of Civil Aviation and the Department of Personnel & Training, and also without considering the financial and social status of the aggrieved families. The decision of the Board of AAI has left the lives of many aggrieved aspirants and their family members in acute despondency. The Committee also wish to express with worry that the decision taken by the Board of AAI taken in 2018 for discontinuation of compassionate appointments has jeopardized the hope of livelihood for not only to Shri Shyamal Kumar Das but also of 47 other persons who have been waiting for their turn for appointment on compassionate grounds in the Airports Authority of India since 2008.

27. The Committee, in fact, would have appreciated the decision of discontinuance of compassionate appointments in the Airports Authority of India by the Board of AAI, if there had been no candidate left in the waiting list for appointment on compassionate grounds. The Committee, therefore, strongly recommend the Ministry of Civil Aviation to take immediate action to sympathetically review and re-consider the decision taken by the Board of AAI in the year 2018 for discontinuing the compassionate appointment in the Airports Authority of India keeping in view the number of dependent persons of the aggrieved family, their financial and social responsibilities, etc., so that this long pending matter should be resolved amicably within a specified time-frame. The Committee would like to be apprised of the specific action taken by the Government in the matter within three months of presentation of this Report to the House.

NEW DELHI;

DR. VIRENDRA KUMAR,
Chairperson,
Committee on Petitions.

20 September, 2020
29 Bhadrapada, 1942 (Saka)

COMPASSIONATE APPOINTMENTS OF DEPENDANTS IN AAI

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23

1. Applicable to a dependent family member of:-

1.1 (a) An AAI employec who dies in service (including death by suicide) leaving his family in immediate need of assistance when there is no other earning member in the family.

(b) Is retired on medical grounds before attaining the age of 57 years.

Service includes extension in service (but not re-employment).
Service includes re-employment of Ex-servicemen in civil post before the normal age of retirement.

For purposes of this concession, the 'dependants' mean only sons (or adopted son), unmarried daughters (or adopted daughter) or widow as defined in revised R&P Regulations, 2005.

13(ii)

EXCEPTIONS:-

I. In exceptional circumstances, with the prior approval of the Competent Authority, the appointment on compassionate grounds may be considered even when there is an earning member in the family of the deceased.

II. If the deceased was unmarried, one of the dependent brothers/sisters will be eligible for consideration, on giving an undertaking that he/she will look after the other family members who were dependent on the deceased AAI employee.

1.2 In case of a missing employee - Subject to the condition mentioned above, compassionate appointment can be considered after two years from the date of missing:-

H (HR)

- (a) If FIR has been filed and the missing official is not traceable;
- (b) If he had at least two years to retire;
- (c) If he is not suspected to have committed fraud/joined terrorist organization /gone abroad;
- (d) If the Competent Authority feels that the case is genuine;

2. Posts to which appointment made-Only in Group 'D' and Group 'C' posts.

3. Competent Authority-Chairman is the Competent Authority in both Group 'C' & Group 'D' for providing employment under Employment Assistance Scheme.

Contd. 2//

1121

Conditions:-

- (i) Compassionate appointment can be made only against the direct recruitment quota and
- (ii) Applicant should fulfill all eligibility conditions in Recruitment Rules.

5. Relaxation:-

(i) Age- Maximum age-limit may be relaxed wherever necessary, but no relaxation is permissible in the minimum limit of 18 years. If the ward is below 18 years of age at the time of death of AAI employee and if he alone is available for employment, he should apply as soon as he attains 18 years.

(ii) Qualification- For Group 'D' & Group 'C' post, the qualification requirement is as under:

Group C	Graduation
Group D	8 th Pass

Qualification for spouse for appointment in Group 'D' only can be exempted, if the duties can be performed satisfactorily.

Qualification for son/daughter for appointment in Group 'D' only can be relaxed upto 2 years only. The appointee should get qualification within the period or otherwise his services are liable to be terminated.

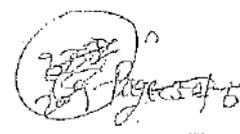
6. Limitations - Compassionate appointments can be made only up to 5% of direct recruitment vacancies. No compassionate appointment can be made if there is no vacancy.

7. Reservations- Person selected for compassionate appointment to be adjusted in the recruitment roster against the appropriate category, i.e. SC/ST/OBC/General Category, depending upon the category to which he belongs.

8. Procedure for appointment - While examining the case, the broad parameter which have been taken into consideration are:-

- a) Number of years of service completed by the deceased employee.
- b) Number of years of balance service at the time of the death.
- c) The terminal benefit received by the dependants including compensation under the Social Security Scheme.

Contd...3//


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- d) Size of the family and the number of dependants.
- e) Employment / occupation/means of income of the dependants.
- f) Age of the dependants etc.

9. Other Provisions:-

- (i) Widow in appointment after re-marriage-There is no bar against a widow appointed on compassionate grounds continuing in the appointment after re-marriage.
- (ii) No consideration for change in post-Once the compassionate appointment is made, request for a change in the post, on compassionate grounds will not be entertained. The appointee will be treated like his colleagues for career advancement in the normal cases.
- (iii) No consideration if compassionate appointment not provided within three years-If compassionate appointment to genuine and deserving cases is not possible in the first year due to non-availability of regular vacancy, the prescribed committee may be review such cases to evaluate the financial conditions of the family to ensure that the family still requires a compassionate appointment, subject to availability of a clear vacancy within the prescribed 5% quota. A candidate's name can be kept under consideration for compassionate appointment for three years and the committee will review the penurious conditions of the applicant at the end of the first and the second year. After three years, if compassionate appointment is not possible, his case will be finally closed and will not be considered again.

Evaluation Criteria

On enhancement of the compensation under the Social Security Schemes proposed above to the dependants of the deceased employee, it will mitigate/avoid the hardship to the bereaved family. There will be constraints on the employment potential opportunities in future. Moreover, there may be lack of desired skills from the dependants of the deceased employee for employment in AAI. The employment assistance offered under this category will be considered on a selective basis considering the gravity of distress/weightage in the defined parameters.

Contd...4//

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A Committee will be constituted to decide the gravity of distress and will meet once in a year. The Committee would consider the request received from the dependants of the deceased employee and evaluate them as per the criteria shown in the proforma enclosed at Annexure-1 or consider other factors such as behavior, overall performance of the employee while in service. The Committee would recommend the names of dependants of deceased employee for employment who are scoring minimum 60% weightage as per the said evaluation.

9/15/2016

WEIGHTAGE FOR CONSIDERING EMPLOYMENT TO THE DEPENDENT OF DECEASED EMPLOYEE

TOTAL
WEIGHTAGE
100 POINTS

Gravity
of Distress
55 Points

Eligibility for
Employment
25 Points

Other factors for
considering Comp. Appt
10 Points

Recommendations of
Committee
10 Points

Received
Terminal Benefits
25 Points

Age of the Deceased
Employee
10 Points

No. of
Dependants
20 Points

Request for
Employment
5 Points

Age of
Applicant
05 Points

Qualification
10 Points

Additional/Higher
Education
Qualification of
the applicant
05 Points

Amount: In Rs./Lacs	Points with House	Points without House
Abv. 10.5	05	10
7 1/2 - 10	10	15
5 - 7 1/2	15	20
Below 5	20	25

Age of the Emp.	Pts
<30	10
30-41	08
41-51	05
51-57	03
>57	00

No. of Depen- dants	Pts
Widow & Minor children	05 each
Other Depen- dants	03 each

Employ- ment to	Pts
Widow	05
Son/ Daughter	02

Age of the appli- cant	Pts
<25	05
25-36	04
35-46	03
>45	02

Mini mum Require- ment	Pts
Meeting	10
Not Meeting	05
Illiterate	00

Qualifica- tion	Pts
Prof. Qual. (Min. 4 yr. duration after min. Qual.	05
SSC Pass or Min. 2 yrs. duration after min. Qual.	02

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F.No.14014/02/2012--Estt. (D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

North Block,
New Delhi
Dated the 16th January, 2013

OFFICE MEMORANDUM

Subject:- Consolidated Instructions on compassionate appointment -
regarding.

The undersigned is directed to invite attention to this Department's O.M. No.14014/6/94-Estt(D) dated 09.10.1998 vide which Scheme for "Compassionate Appointment under Central Government" was issued. Subsequently a number of instructions on compassionate appointments under the Central Government have been issued. The content of important/relevant O.Ms and orders on the subject have been further consolidated for the facility of reference and guidance and are being made available on this Department's website www.persmin.nic.in in the dynamic form (OMs & Orders>Establishment>(A) Administration (III) Concessions in appointment (a) compassionate appointment). This may be brought to the notice of all concerned for information, guidance and necessary action.

2. Hindi version will follow.

Virender Singh
16/1/2013
(Virender Singh)

Under Secretary to the Government of India
Tel. No. 2309 3804

To,
All Ministries/Departments of Government of India

Copy to:

1. President's Secretariat, New Delhi
2. Vice-President's Secretariat, New Delhi
3. The Prime Minister's Office, New Delhi
4. Cabinet Secretariat, New Delhi
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi
6. The Registrar General, the Supreme Court of India, New Delhi.
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.

8. The Comptroller and Auditor General of India, New Delhi
9. The Secretary, Union Public Service Commission, New Delhi
10. The Secretary, Staff Selection Commission, New Delhi
11. All attached offices under the Ministry of Personnel, Public Grievances and Pensions
12. National Commission for Scheduled Castes, New Delhi
13. National Commission for Scheduled Tribes, New Delhi
14. National Commission for OBCs, New Delhi
15. Secretary, National Council (JCM), 13, Ferozeshah Road, New Delhi.
16. Establishment Officer & A.S.
17. All Officers and Sections in the Department of Personnel and Training.
18. Facilitation Centre, DOP&T (20 copies)
19. NIC (DOP&T) for placing this Office Memorandum on the Website of DOP&T.
20. Establishment Section (200 copies).

Virender Singh
16/1/2013
(Virender Singh)

Under Secretary to the Government of India
Tel. No. 2309 3804

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SCHEME FOR COMPASSIONATE APPOINTMENT

1. OBJECT

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. TO WHOM APPLICABLE

To a dependent family member --

- (A) of a Government servant who --
- (a) dies while in service (including death by suicide); or
 - (b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' Government servants); or
 - (c) is retired on medical grounds under Rule 38 of the CCS(Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for erstwhile Group 'D' Government servants); or
- (B) of a member of the Armed Forces who --
- (a) dies during service; or
 - (b) is killed in action; or
 - (c) is medically boarded out and is unfit for civil employment.

Note I "Dependent Family Member" means:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or
- (e) member of the Armed Forces referred to in (A) or (B) of this para,

-- who was wholly dependent on the Government servant/ member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

- Note II "Government servant" for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis.
- Note III "Confirmed work-charged staff" will also be covered by the term 'Government servant' mentioned in Note III above.
- Note IV "Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in a civil post.
- Note V "Re-employment" does not include employment of ex-serviceman before the normal age of retirement in a civil post.

3. AUTHORITY COMPETENT TO MAKE
COMPASSIONATE APPOINTMENT

- (a) Joint Secretary in-charge of administration in the Ministry/Department concerned.
- (b) Head of the Department under the Supplementary Rule 2(10) in the case of attached and subordinate offices.
- (c) Secretary in the Ministry/Department concerned in special types of cases.

4. POSTS TO WHICH SUCH APPOINTMENTS CAN BE MADE

Group 'C' posts against the direct recruitment quota.

5. ELIGIBILITY

- (a) The family is indigent and deserves immediate assistance for relief from financial destitution; and
- (b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

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6. A. EXEMPTIONS

Compassionate appointments are exempted from observance of the following requirements:-

- (a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or the Employment Exchange.
- (b) Clearance from the Surplus Cell of the Department of Personnel and Training/Directorate General of Employment and Training.
- (c) The ban orders on filling up of posts issued by the Ministry of Finance (Department of Expenditure).

B. RELAXATIONS

- (a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I Age eligibility shall be determined with reference to the date of application and not the date of appointment;

Note II Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

- (b) In exceptional circumstances Government may consider recruiting persons not immediately meeting the minimum educational standards. Government may engage them as trainees who will be given the regular pay bands and grade pay only on acquiring the minimum qualification prescribed under the recruitment rules. The emoluments of these trainees, during the period of their training and before they are absorbed in the Government as employees, will be governed by the minimum of the - IS pay band Rs.4440-7440 without any grade pay. In addition, they will be granted all applicable Allowance, like Dearness Allowances, House Rent Allowance and Transport Allowance at the admissible rates. The same shall be calculated on the minimum- IS pay band without any grade pay. The period spent in the-IS pay band by the future recruits will not be counted as service for any purpose as their regular service will start only after they are placed in the pay band PB-1 of Rs.5200-20200 along with grade pay of Rs.1800. (Para 1 of O.M. No.14014/2/2009-Estt.(D) Dated the 11th December, 2009)

Note In the case of an attached/subordinate office, the Secretary in the concerned administrative Ministry/Department shall be the competent authority for this purpose.

- (c) In the matter of exemption from the requirement of passing the typing test those appointed on compassionate grounds to the post of Lower Division Clerk will be governed by the general orders issued in this regard:-

DoP&T's O.M. No. 14014/02/2012-Estt.(D) dated 16.01.2013

- (i) by the CS Division of the Department of Personnel and Training if the post is included in the Central Secretariat Clerical Service; or
 - (ii) by the Establishment Division of the Department of Personnel and Training if the post is not included in the Central Secretariat Clerical Service.
- (d) In case of appointment of a widow not fulfilling the requirement of educational qualification, against the post of MULTI TASKING STAFF, she will be placed in Group 'C'- Pay Band - 1 (Rs. 5200-20200)+ Grade Pay Rs. 1800/- directly without insisting on fulfillment of educational qualification norms, provided the appointing authority is satisfied that the duties of the post against which she is being appointed can be performed with help of some on job training. This dispensation is to be allowed for appointment on compassionate ground against the post of MULTI TASKING STAFF only. (Para 2 of O.M. No.14014/2/2009-Estt. (D) Dated 03.04.2012)

7. DETERMINATION/AVAILABILITY OF VACANCIES

- (a) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.
- (b) Compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' post. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category viz SC/ST/OBC/General depending upon the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.
- (c) While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant on casual/daily wage/ad-hoc/contract basis against regular vacancies, there is no bar to considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments
- (d) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.

- (e) The Committee constituted for considering a request for appointment on compassionate grounds should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/department/Office, that too within the ceiling of 5% of vacancies falling under DR quota in Group 'C' posts. (O.M.No.14014/18/2000-Estt.(D) dated 22.06.2001)

- (f) Calculation of vacancies by grouping of posts for small offices/cadres - Grouping of posts in small Offices/Cadres for the purpose of calculation of vacancies for appointment on compassionate grounds is allowed. Consequently, Group 'C' posts in which there are less than 20 direct recruitment vacancies in a recruitment year may be grouped together and out of the total number of vacancies 5% may be filled on compassionate grounds subject to the condition that appointment on compassionate grounds in any such post should not exceed one. For the purpose of calculation of vacancies for compassionate appointment, fraction of a vacancy either half or exceeding half but less than one may be taken as one vacancy. (Para 2 and 3 of O.M. No. 14014/24/1999-Estt.(D) dated 28.12.1999)

- (g) Liberalized method of calculation of vacancies for small Ministries/Departments - The small Ministries/Departments may apply a more liberalized method of calculation of vacancies under 5% quota for compassionate appointment. The small Ministries/Departments, for the purpose of these instructions, are defined as organizations where no vacancy for compassionate appointment could be located under 5% quota for the last 3 years. Such small Ministries/Departments may add up the total of DR vacancies in Group 'C' and erstwhile Group 'D' posts (excluding technical posts) arising in each year for 3 or more preceding years and calculate 5% of vacancies with reference to the grand total of vacancies of such years, for locating one vacancy for compassionate appointment. This is subject to the condition that no compassionate appointment was/has been made by the Ministries/Departments during 3 years or number of years taken over and above 3 years for locating one vacancy under 5% quota. (Para 4 of O.M. No. 14014/3/2005-Estt.(D) dated 09.10.2006)

- (h) The compassionate appointment can also be made against technical 'posts' at Group 'C' and erstwhile Group 'D' level. The 5% quota of vacancies will be calculated on the basis of total DR vacancies arising in a year in the technical posts. (Para 2 of O.M. No. 14014/3/2005-Estt(D) dated 19.01.2007.

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8. TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT:

Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case

9. BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

- (a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.
- (b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.
- (c) ~~The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment~~ (Para 4 of O.M No.14014/3/2011-Estt.(D) dated 26.07.2012)

10. WIDOW APPOINTED ON COMPASSIONATE GROUNDS GETTING REMARRIED

A widow appointed on compassionate grounds will be allowed to continue in service even after re-marriage.

11. WHERE THERE IS AN EARNING MEMBER

- (a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of

dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

- (b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

12. MISSING GOVERNMENT SERVANT

Cases of missing Government servants are also covered under the scheme for compassionate appointment subject to the following conditions:-

- (a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Government servant has been missing, provided that:
- (i) an FIR to this effect has been lodged with the Police,
 - (ii) the missing person is not traceable, and
 - (iii) the competent authority feels that the case is genuine;
- (b) This benefit will not be applicable to the case of a Government servant:-
- (i) who had less than two years to retire on the date from which he has been missing; or
 - (ii) who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.
 - (c) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the scheme;
 - (d) While considering such a request, the results of the Police investigation should also be taken into account; and
 - (e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned.

13. PROCEDURE

- (a) The proforma as in Annexure may be used by Ministries/Departments/ Offices for ascertaining necessary information and processing the cases of compassionate appointment.
- (b) The Welfare Officer in each Ministry/Department/Office should meet the members of the family of the Government servant in question immediately after his death to advise and assist them in getting appointment on compassionate grounds. The applicant should be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him.
- (c) An application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and Training (Establishment Division) on the subject by a committee of officers consisting of three officers – one Chairman and two Members – of the rank of Deputy Secretary/ Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices. The Welfare Officer may also be made one of the Members/Chairman of the committee depending upon his rank. The committee may meet during the second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the committee, if necessary, for better appreciation of the facts of the case.
- (d) Recommendation of the committee should be placed before the competent authority for a decision. If the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision.

14. UNDERTAKING FOR MAINTENANCE OF THE FAMILY OF THE DECEASED EMPLOYEE

A person appointed on compassionate grounds under the scheme should give an undertaking in writing (as in Annexure) that he/she will maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. The question of its legal enforceability has been examined in consultation with the Ministry of Law (Department of Legal Affairs) and it has been decided that it should be incorporated as one of the additional conditions in the offer of appointment applicable only in the case of appointment on compassionate grounds (O.M No.14014/16/1999-Estt.(D) dated 20.12.1999).

15. REQUEST FOR CHANGE IN POST/PERSON

When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment, should be deemed to have ceased to exist. Therefore, --

- (a) he/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on considerations of compassion should invariably be rejected.
- (b) an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

16. SENIORITY

A person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground. (Para 4.8 of O.M. No. No.20011/1/2008-Estt.(D) dated 11.11.2010)

17. TERMINATION OF SERVICE

The compassionate appointments can be terminated on the ground of non-compliance of any condition stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him/her to explain why his/her services should not be terminated for non-compliance of the condition(s) in the offer of appointment and it is not necessary to follow the procedure prescribed in the Disciplinary Rules/Temporary Service Rules for his purpose.

In order to check its misuse, it has also been decided that this power of termination of services for non-compliance of the condition(s) in the offer of compassionate appointment should vest only with the Secretary in the concerned administrative Ministry/Department not only in respect of persons working in the Ministry/Department proper but also in respect of Attached/Sub-ordinate offices under that Ministry/Department. (O.M. No. 14014/19/2000-Estt(D) dated 24.11. 2000).

18. GENERAL

- (a) Appointments made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical qualifications and experience required for the post consistent with the requirement of maintenance of efficiency of administration.
- (b) It is not the intention to restrict employment of a family member of the deceased or medically retired (erstwhile) Group 'D' Government servant to a erstwhile Group 'D' post only. As such, a family member of such erstwhile Group 'D' Government servant can be appointed to a Group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.
- (c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.
- (d) Compassionate appointment should not be denied or delayed merely on the ground that there is reorganisation in the Ministry/Department/ Office. It should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he or she is found eligible and suitable under the scheme.
- (e) Requests for compassionate appointment consequent on death or retirement on medical grounds of erstwhile Group 'D' staff may be considered with greater sympathy, by applying relaxed standards depending on the facts and circumstances of the case.
- (f) Compassionate appointment will have precedence over absorption of surplus employees and regularisation of daily wage/casual workers with/without temporary status.
- (g) Any request to increase the upper age-limit of 55 years for retirement on medical grounds prescribed in para 2(A) (b) and (c) above in respect of Group 'A'/'B'/'C' Government servants and to bring it at par with the upper age-limit of 57 years prescribed therein for erstwhile Group 'D' Government servants on the ground that the age of retirement has recently (May, 1998) been raised from 58 years to 60 years for Group 'A'/'B'/'C'

Government servants (which is at par with the age of retirement of 60 years applicable to erstwhile Group 'D' Government servants) or on any other ground should invariably be rejected so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical grounds at the fag end of one's career and also keeping in view the fact that the higher upper age-limit of 57 years has been prescribed therein for erstwhile Group 'D' Government servants for the reason that they are low paid Government servants who get meagre invalid pension in comparison to others.

19. IMPORTANT COURT JUDGEMENTS

The ruling contained in the following judgements may also be kept in view while considering cases of compassionate appointment:-

- (a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and others vs. G. Ananta Rajeswara Rao [(1994) 1 SCC 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.
- (b) The Supreme Court's judgement dated May 4, 1994 in the case of Unesh Kumar Nagpal vs. State of Haryana and others [JT 1994(3) S.C. 525] has laid down the following important principles in this regard:
 - (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
 - (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
 - (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
 - (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

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- (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
- (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
- (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.
- (c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India vs. Mrs Asha Ramchandra Ambekar and others [JT 1994(2) S.C. 183] that the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.
- (d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation vs. Dinesh Kumar [JT 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited vs. Smt A. Radhika Thirumalai [JT 1996 (9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.
- (e) The Supreme Court has held in its judgement in the case of State of Haryana and others vs. Rani Devi and others [JT 1996(6) S.C. 646] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad-hoc employees including those who are working as Apprentices, then such scheme cannot be justified on Constitutional grounds.
- (f) The Hon'ble Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind". (O.M. No. 14014/3/2011-Estt.(D) dated 26.07.2012).

FORM FOR SEEKING COMPASSIONATE APPOINTMENT BY DEPENDENTS OF GOVERNMENT SERVANTS DECEASED WHILE IN SERVICE OR RETIRED ON MEDICAL GROUNDS

PART-A

- I. (a) Name of the Government servant (Deceased/retired on medical ground)
- (b) Designation of the Government Servant
- (c) Whether it is MTS(erstwhile Group 'D') or not?
- (d) Date of Birth of the Government Servant
- (e) Date of death/retirement on medical grounds
- (f) Total length of Service Rendered
- (g) Whether permanent or temporary
- (h) Whether belonging to SC/ST/OBC
- II. (a) Name of the candidate for appointment
- (b) His/Her relationship with the Government Servant
- (c) Date of Birth
- (d) Educational Qualification
- (e) Whether any other dependent family member has been appointed on
 compassionate grounds
- III. Particulars of total assets left including amount of
- (a) Family Pension
- (b) D.C.R. Gratuity
- (c) G.P.F. Balance
- (d) Life Insurance Policies (including Postal Life Insurance)
- (e) Moveable and Immovable properties & annual income earned therefrom
 by the family.
- (f) C.G.E. Insurance amount
- (g) Encashment of leave
- (h) Any other assets
- Total
- IV. Brief particular of liabilities, if any.
- V. Particulars of all dependent family members of the Government servant (if
 Some are employed, their income and whether they are living together or separately

S.No.	Name(s)	Relationship with Govt. servant	Age	Address	Employed or not if employed particulars of employment and emoluments)
1					
2					
3					

- VI. Declaration/Undertaking
- 1. I hereby declare that the facts given by me above are, to the best of my knowledge, correct. If any of the facts herein mentioned are found to be incorrect or false at a future date, my services may be terminated.
- 2. I hereby also declare that I shall maintain properly the other family members who were dependent on the Government servant/Member of the Armed Forces mentioned against 1(a) of Part-A of this form and in case it is proved at any time that the said family members are being neglected or not being properly maintained by me, my appointment may be terminated.

Date:

Signature of the Candidate
Name.....
Address.....

DoP&T's OM NO. 14014/02/2012-Estt.(D) dated 16.01.2013

Shri/Smt/Kum _____ is known
to and the facts mentioned by him/her are correct.

Date:

Signature of permanent
Government servant.

Name: _____

Address:- _____

I have verified that the facts mentioned above by the candidate are correct.

Date:

Signature of permanent
Government servant.

Name: _____

Address:- _____

-36-

-37-

PART-B

(TO BE FILLED IN BY OFFICE IN WHICH EMPLOYMENT IS PROPOSED)

- I. (a) Name of the candidate for Appointment. _____
- (b) His/Her relationship with the Government servant. _____
- (c) Age (date of birth), educational qualifications and experience, If any. _____
- (d) Post (Group C) which employment is Proposed _____
- (e) Whether there is vacancy in that post within the ceiling of 5% prescribed under the scheme of compassionate appointment. _____
- (f) Whether the post to be filled is included in the Central Secretariat Clerical Service or not. _____
- (g) Whether the relevant Recruitment Rules provide for direct recruitment. _____
- (h) Whether the candidate fulfils the requirements of the Recruitment Rules for the post. _____
- (i) Apart from waiver of Employment Exchange/Staff Selection Commission procedure what other relaxation are to be given. _____
- (II) Whether the facts mentioned in Part-A have been verified by the office and if so, indicate the records. _____
- (III) If the Government servant died/retired on medical grounds more than 5 years back, why the case was not sponsored earlier. _____
- (IV) Personal recommendation of the Head of the Department in the Ministry/ Department/Office.
(With his signature and office Stamp/seal) _____



Annexure-2

भारतीय विमानपत्तन प्राधिकरण
AIRPORTS AUTHORITY OF INDIA

Sl. A.60011/49/2017/HRPC (2)

The Regional Executive Director
Airports Authority of India
Northern/Western/Eastern/Southern/NE Region
New Delhi/Mumbai/Kolkata/Chennai/Guwahati

The Airport Director
Airports Authority of India
Kolkata/Chennai Airport

The Principal,
Civil Aviation Training College (CATC)
Banratali,
Alkhabad

The Executive Director
Airports Authority of India
RCDU/PIU,
New Delhi

The Director,
Indian Aviation Academy
New Delhi

The General Manager
Airports Authority of India
CRSD/E&M Workshop
New Delhi

CHRM CIRCULAR NO. 9 /2018

Sub: Discontinuance of Compassionate Appointment in AAI

The Compassionate Appointment in Airports Authority of India is not being considered since 2008, considering the issue of redeployment of Delhi & Mumbai Airports Manpower and Delhi Court Order directing gainful deployment of excess manpower of AAI.

2. The issue of Compassionate Appointment in AAI was placed before the Board in its 178th meeting wherein the AAI Board after detailed deliberation taking into consideration the Supreme Court Decision in the case of Union of India & ANR vs Shashank Goswami and the social security schemes/compensation paid to the dependents of the deceased employees in AAI are quite sufficient to meet the family needs of the deceased employee and thus resolved to discontinue Compassionate Appointments in AAI with immediate effect. Accordingly, sub para 13 1(ii) of R & F Guidelines stands repealed, except in the cases where judicial order has attained finality till date.

3. This issues with the approval of Competent Authority


Suman Jais
Executive Director (HR)

Distribution:

- * DGM (ES) to Chairman
- * DGMS (ES) to Member(Planning)/Member(Fin)/Member(HR)/Member(ANS)/Member(Ops)/ CVO
- * ED (HR) / All HODs at CHQ/Operational Office/AAI Office Complex
- * GM(IT) for uploading on AAI website /All GM (HR) - for information please
- * General Secretary - AAOA (I)/ ATC.(G) / IAAIOA / AAI Engg. Guild(I)/ AAI SCT Association
- * General Secretary, AAIEU

राजि गान्धी भवन
Rajiv Gandhi Bhawan

साफरजंग एअरपोर्ट इण्डिया नई दिल्ली 110003
Safdarjung Airport, New Delhi-110003

दूरभाष 24632950
Phone: 24632950

MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)

The Committee met on Monday, 20 January, 2020 from 1200 hrs. to 1310 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS

2. Shri Harish Dwivedi
3. Dr. Sukanta Majumdar
4. Dr. Bharati Pravin Pawar
5. Shri Brijendra Singh
6. Shri Rajan Vichare

SECRETARIAT

1. Shri T. G. Chandrasekhar - Joint Secretary
2. Shri Raju Srivastava - Director

WITNESSES

MINISTRY OF CIVIL AVIATION
AND
AIRPORTS AUTHORITY OF INDIA

1. Ms. Rubina Ali - Joint Secretary
2. Shri Arvind Singh - Chairman, AAI
3. Shri Anuj Aggarwal - Member (HR), AAI
4. Shri Sanjay Jain - ED (HR), AAI

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[The representatives of the Ministry of Civil Aviation and Airports Authority of India were ushered in]

3. After welcoming the representatives of the Ministry of Civil Aviation and Airports Authority of India, the Hon'ble Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. Thereafter, the Committee heard the representatives of the Ministry of Civil Aviation on the Representation received from Shri Shyamal Kumar Das regarding inordinate delay in his appointment in Airports Authority of India, Kolkata on compassionate grounds and other important issues related therewith. The major issues put forth before the Committee by these witnesses, were as follows:-

- (i) Late Shri Sushil Kumar Das, Assistant Mechanic in the office of Regional Executive Director, Eastern Region, expired on 6.2.1988 at the age of 55 years. He was a bachelor at the time of his death. As per the nomination, his terminal benefits were paid to the petitioner, i.e., his nephew, Shri Shyamal Kumar Das.
- (ii) Shri Shyamal Kumar Das had applied for the job under Employment Assistance Scheme (EAS) in Airports Authority of India (AAI). The case was considered in the Employment Assistance Committee (EAC) meeting held on 14.6.1989, but was not recommended for the job as the applicant did not come under the category of 'Dependent' as defined in the prevailing Guidelines of AAI for the employment on compassionate appointments.
- (iii) Aggrieved by the decision of AAI, Shri Shyamal Kumar Das filed Writ Petition in the High Court of Kolkata. The High Court ordered to consider the case of the appellant afresh on the basis of application made by him in the light of the Scheme as was in force on the date of making such application, namely, the 1978 Scheme.
- (iv) Again EAC meeting was held on 16/17.06.2005 and 09.11.2005 as per the direction of High Court to consider the case. However since Late Shri Sushil Kumar Das was a bachelor at the time of death and Shri Shyamal Kumar Das was not wholly dependent on him, the case to provide compassionate appointment did not fall within the provision of the EAS. Ultimately, the case of Shri Shyamal Kumar Das was rejected.
- (v) Thereafter, AAI filed the Special Leave Petition before the Supreme Court which passed the order dated 5.10.2010 to employ Shri Shyamal Kumar Das in the category of 'D' persons waiting for deployment, as and when his turn comes without considering his age.
- (vi) As per the directions of Supreme Court, the Petitioner was accordingly informed, vide AAI letter dated 09.07.2012.

- (vii) Further, approximately 4000 employees were reverted back to AAI on account of privatisation of Delhi and Mumbai Airports and they have still not been redeployed gainfully. On account of this, no appointments were made in AAI on compassionate grounds, from the year 2008.
- (viii) AAI is also likely to lease out six more Airports under the Public Private Partnership model in the ensuing months which would result in adding even more number of surplus employees.
- (ix) As per ruling of the Supreme Court, if the compensation amount upon the death of an employee is above Rs.5 lakhs in case of Group B, above Rs.3 lakhs in case of Group C and Rs.2 lakhs in case of Group D, then no case is made out for appointment on compassionate grounds. Further, such compensation amount under the Social Security Schemes has, however, been increased in the year 2008 and recently in the year 2018.
- (x) The issue of Compassionate Appointment in AAI was placed before the AAI Board in the year 2018 and after detailed deliberation, it was decided to discontinue Compassionate Appointments in AAI with immediate effect.

4. After hearing the views of the representatives of the Ministry of Civil Aviation and Airports Authority of India, the Committee expressed their views as under:-

- (i) In spite of the order of the High Court of Kolkata in 2005, the case of the Representationist was not considered for compassionate appointment in AAI which appears to be misuse of powers by the senior officials of the AAI, wherein, principles of natural justice was also overlooked.
- (ii) Compassionate appointment should not be denied or delayed merely on the grounds that there is re-organisation in the Ministry/Department or any Establishment. Further, the main objective of considering compassionate appointment is to enable the family to tide over the sudden crisis and to relive them from financial destitution and also to help them to get over the emergency, which are reflected in the DoPT's consolidated Instructions on compassionate appointment dated 16.1.2013.
- (iii) The aspect of privatisation/re-organisation of Airports in the country resulting in surplus manpower could not be a ground for denying appointment to a person on compassionate grounds.

- (iv) Since the Representationist has been suffering for than 30 years and has already reached the age of superannuation, therefore, the request of the Representationist needs to be considered, as a special case, purely on humanitarian grounds and resolved in a time bound manner.

5. The representatives of the Ministry of Civil Aviation along with the Chairman, AAI assured the Committee that the request of Shri Shyamal Kumar Das for appointment in AAI on compassionate grounds would be considered after consulting their Legal Counsel and a report thereon would be submitted to the Committee on Petitions, within a month.

6. The Committee, thereafter, decided that appropriate clarifications be sought from the Ministry of Civil Aviation and Airports Authority of India on the following aspects:-

- (i) The details of applications for compassionate appointment received in the AAI since 1988, till date.
- (ii) The details of all appointments made by AAI on compassionate grounds, till date.
- (iii) The details of requests for appointment on compassionate grounds pending in AAI, till date.
- (vi) Specific timeline by which all the requests for appointment on compassionate grounds are likely to be considered by AAI.

[The representatives of the Ministry of Civil Aviation and Airports Authority of India, then, withdrew]

7. XXX

XXX

XXX

8. A copy of the verbatim record of the proceedings of the sitting of the Committee has been kept on record.

The Committee, then, adjourned.

XXX - Does not pertain to this Report.

CONFIDENTIAL

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)

The Committee met on Sunday, 20 September, 2020 from 1400 hrs. to 1430 hrs. in Room No.117, Chairman's Chamber, Parliament House Annexe Extension, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS

2. Shri Harish Dwivedi
3. Dr. Bharati Pravin Pawar
4. Shri Brijendra Singh
5. Shri Prabhubhai Nagarbhai Vasava
6. Shri Rajan Vichare

SECRETARIAT

1. Shri T. G. Chandrasekhar - Joint Secretary
2. Shri G. C. Dobhal - Additional Director

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

3. The Committee then considered the draft Report on the Representation of Shri Shyamal Kumar Das regarding inordinate delay in his appointment in Airports Authority of India, Kolkata on Compassionate Grounds and other important issues related therewith. After detailed discussion, the Committee adopted the said Draft Report without any modification(s). The Committee also authorised the Chairperson to finalise the Draft Report and present the same to the House.

The Committee, then, adjourned.
