



भारतीय प्रतिरक्षा मजदूर संघ

Bharatiya Pratiraksha Mazdoor Sangh

(AN ALL INDIA FEDERATION OF DEFENCE WORKERS)
(AN INDUSTRIAL UNIT OF B.M.S.)

(RECOGNISED BY MINISTRY OF DEFENCE, GOVT. OF INDIA)

SADHU SINGH
Vice President

Member National Council (JCM)

Member JCM III Council (OFB)

CENTRAL OFFICE : 2-A, NAVIN MARKET, KANPUR-1 • PH. & FAX : (0512) 2332222
Mob. : 09415733686, 09335621629, 09235729390 • E-mail : gensecbpms@yahoo.co.in, cecbpms@yahoo.in

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To

Dr. Jitendra Singh
MoS in Prime Minister's Office, Atomic Energy,
Space, Personnel, Public Grievances & Pensions
North Block, New Delhi - 110001

Sub: Extension of Social Security and Welfare by Grant of one time relaxation on the ceiling of 5% for compassionate appointment in Ministry of Defence.

महोदय,

“भारतीय प्रतिरक्षा मजदूर संघ” का प्रतिनिधि मण्डल दिनांक 03/03/2020 को विषयक मांग के निवारण के सम्बन्ध में आपके समक्ष उपस्थित होकर पत्र दिया था परन्तु अभी तक उपरोक्त विषय के निवारण में कोई प्रगति नहीं हुयी है अतः एक बार पुनः उक्त विषय आपके समक्ष प्रस्तुत है | उक्त विषय का विवरण इस प्रकार है |

मृतक कर्मचारियों के आश्रितों को Central Government के सभी विभागों में Direct Recruitment का 5% कोटा निर्धारित है भारत सरकार के विभिन्न विभागों में हजारों मृतक आश्रितों ने नौकरी हेतु आवेदन किया है। इन मृतक कर्मचारियों के आश्रितों की आर्थिक स्थिति अत्यन्त दयनीय है। “भारतीय मजदूर संघ” से सम्बद्ध विभिन्न औद्योगिक ईकाईयों ने अपनी कार्य समिति बैठकों और त्रिवाषिक अधिवेशनों में प्रस्ताव पास करके भारत सरकार से मांग की विभिन्न विभागों में लाखों की संख्या में ग्रुप “C” और “D” के रिक्त स्थान खाली हैं।

महोदय आपसे विनम्र निवेदन है कि केन्द्र सरकार के मृतक कर्मचारियों के आश्रितों को One Time Relaxation देकर प्रतीक्षारत लोगो को नौकरी देने की कृपा करें तथा मृतक आश्रितों के लिये सीधी भर्ती का 5% कोटा में वृद्धि करते हुए 15% किया जाये।

धन्यवाद ।

Sincerely Yours

(SADHU SINGH)

Vice President

Member National Council JCM

संलग्नक: Resolution की एक प्रति।

Resolution as adopted in 18th TC

Extension of Social Security and Welfare by Grant of one time relaxation on the ceiling of 5% for compassionate appointment in Ministry of Defence.

The appointment on compassionate ground is an exception to the equality clause under Article 14. If an employee dies while in service then according to rule framed by the Central Government or the State Government, appointment to one of the dependants shall not be considered violation of Articles 14 and 16 of the Constitution because this exception has been provided through various rules only to mitigate the hardships of deceased employee family suffering from scarcity of very trivial things of daily life due to the death of sole bread winner of the family and sudden misery faced by the members of the family of such employee who serves the Central Government or the State Government.

Hon'ble Supreme Court of India has held that while framing a rule in respect of appointment on compassionate ground, the authorities have to be conscious of the fact the fundamental right which has been provided to the citizen of India under Articles 14 and 16 of the Constitution. As such there should be a proper check and balance. Further, though the compassionate appointment matters fall under exclusive domain of the State which extends it to a family member of the deceased Government Servant in order to relieve them of the penurious situation and the crippling crisis arises due to the sudden demise of the employee. The exercise of making such appointments should not be on routine basis in all cases but only in exceptional cases where the situation is such that grant of appointment is absolutely warranted, as otherwise, the family would sink down and collapse due to penury.

The Apex Court held that the very concept of giving a compassionate appointment is to assuage the financial hardships of the family of the deceased. It has been held by the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana and others reported in (1994) 4 SCC 138, that-

The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment or any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the

rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such sources of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of deceased, and it is only if is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.

The posts in classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employees is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which is suddenly upturned.”

Govt. of India, DoP&T O.M. No. 14014 / 6 / 94- Estt (D) dated 09th Oct 1998 read with O.M. No. 14014/23/ 99- Estt (D) Dated 03rd Dec 1999 has a provision to give compassionate appointment to one of the dependents for the survival of the family, if the employee unfortunately dies during his service period; leaving his family behind to survive, but it is limited to only 5% of the vacancies falling under direct recruitment quota in any Group ‘C’ or ‘D’ post. Not only this, under this 5% quota of DR of Group ‘C’ & ‘D’ defence civilians, the dependants of Group ‘A’ & ‘B’ defence civilians and all uniformed personnel (of Army, Air Force & Navy) are being granted compassionate appointment whereas the 5% vacancies under DR of Group ‘A’ & ‘B’ defence civilians and uniformed personnel are not included. Due to this, a large number of wards are waiting for their appointment on compassionate ground so that they may be able to look after their family properly.

There was 5.85 lakh sanctioned strength of defence civilians but the existing strength was only 3.98 lakh as on 01.01.2014 according to the report of 07th CPC. The equation has become worse over the time of three years. There are Approx 30 thousands aspirants who are seeking appointment on compassionate ground in various Defence Establishments.

It is worth to mention here that DoP&T is the competent authority to grant one time relaxation from the ceiling of 5% vacancies falling under direct recruitment quota in Group 'C' post in a recruitment year.

We had resolved the same issue in our 17th TC. The then Defence Minister Shri Manohar Parrikar had assured us regarding redressal of it. Some appropriate action was taken by him. But after his departure to Goa, the matter could not get any momentum and still unresolved.

Therefore, this 18th Triennial Conference of BPMS unanimously resolves keeping in mind the penury situation of families of deceased employees in mind that Ministry of Defence should seek one time relaxation from DoP&T from the ceiling of 5% vacancies for compassionate ground appointments in the Defence Installations so that all the pending genuine cases may be resolved forthwith .

Proposed by:.....

Seconded by:.....