

**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM –
LABOUR COURT NO. II, NEW DELHI**

I.D. No. 25/2013

Sh. Ashok Kumar vs. N.D.M.C.

Sh. Ashok Kumar
S/O Late Sh. Bhorey Lal,
R/O F-579, Mangolpuri,
Delhi-110083.

...Applicant/Claimant

Versus

The Director,
N.D.M.C., Palika Kendra, 5th Floor,
New Delhi-110001.

...Management/respondent

Counsels:

For Applicant/ Claimant:

Sh. Sunil Kumar, Ld. AR.

For Management/ Respondent:

Sh. Raghvendra Upadhyay, Ld. AR.

Award

09.03.2026

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India, through the Ministry of Labour and Employment, vide its Order No. L-42011/169/2012-IR(DU) dated 28.02.2013, has been pleased to refer the following dispute between and for adjudication by this Tribunal in the following terms:

“Whether the action of the management of NDMC in not granting compassionate employment to Shri Ashok Kumar S/o

Late Shri Bhurey Lal is legal and justified? If not, what relief the workman is entitled to?"

At the outset, it is important to mention here that the present case reflects the misuse of the legal machinery for appointment on compassionate grounds.

In pursuance of the reference, the claimant appeared and filed his claim statement. He stated that his father Sh. Bhurey Lal, who was working with the management, expired on 19.02.2004. Thereafter, the claimant applied for appointment on compassionate grounds. He alleged that although the management had given compassionate appointment to 92 applicants, his claim was rejected without assigning any reasons.

The management granted employment in its Fire Department to 9 persons in 2004, 8 in 2005, 11 in 2006, 15 in 2007, 44 in 2008, 80 in 2009, and 63 in 2010. It also granted employment in its Civil Department to 72 persons in 2004, 118 in 2005, 148 in 2006, 138 in 2007, 143 in 2008, 133 in 2009, and 117 in 2010. According to him, despite large-scale appointments during the said period, he was denied compassionate appointment. Being aggrieved, he approached the conciliation officer and upon failure of conciliation, the present reference was made to this Tribunal. Therefore, the claimant has filed his claim seeking employment on compassionate grounds in lieu of services rendered by his deceased father.

In response, the management filed a written statement stating that the present claim is a sheer misuse and abuse of the process of law as no right accrues in favour of the claimant as a matter of fundamental right to claim employment under the category of compassionate grounds. In fact, there are certain guidelines drafted by the department as per the DoPT Guidelines and other provisions under which such employments are governed, and the claimant did not fulfill the prescribed eligibility criteria. It was further stated that the present reference has been made in a mechanical and stereotype manner without considering the stand of the management. Hence, the management prayed for dismissal of the present claim.

A rejoinder had also been filed by the claimant where he denied the averments made by the management in its written statement and affirmed the averments in his claim statement.

From the pleadings of the parties, following issues were framed vide order dated 26.11.2013:

1. Whether the action of the management of NDMC in not granting compassionate employment to Shri Ashok Kumar S/o Late Shri Bhurey Lal is legal and justified?
2. If not, what relief the workman is entitled to?"

To prove his case, the claimant examined himself as WW1. He reiterated the facts stated in the claim statement and relied upon the following documents:

1. Minutes of meeting of the committee constituted for examining the cases of appointments on compassionate grounds. (Ex. WW1/1)
2. List of recommended cases of compassionate appointments duly attested by the management. (Ex. WW1/2)
3. List of rejected cases of compassionate appointments duly attested by the management (Ex. WW1/3).
4. List of deferred cases of compassionate appointments duly attested by the management. (Ex. WW1/4).
5. List of daily wagers appointed during 2004. (Ex. WW1/5).
6. Death certificate of the deceased father of the claimant (Mark A).
7. Family details and correspondences with the management regarding compassionate appointment. (Mark B).

During cross-examination, the claimant admitted that he raised the dispute regarding compassionate appointment after 8 years of his father's death. He further admitted that he had no knowledge of the grounds and criteria considered for compassionate appointment. He further deposed that his father passed away leaving behind four dependents, namely himself, his elder brother, his elder sister and his

younger brother. He admitted that his siblings were aware of his claim, however no 'No Objection Certificate' had been filed by them.

In rebuttal, the management also examined one witness, Ms. Meena Kaushal, Deputy Director (Civil and Electrical Establishment). She deposed that the management, while considering and recommending numerous applications of such candidates, follows the guidelines of the DoPT, such as the seniority of the deceased, his age at the time of death, the dependents left behind by him, particularly unmarried daughters, the number of years of service left at the time of death, physical disability of the applicant, etc. She stated that the lists of recommended, rejected, and deferred cases were already on record and had been exhibited by the claimant himself.

During her cross-examination, the witness admitted that the father of the claimant, Sh. Bhurey Lal, was working as a Mate in the Civil Engineering department and expired on 19.02.2004. She further admitted that the claimant's application for his appointment on compassionate grounds was rejected as per the policy and guidelines of DoPT after due consideration. She also admitted that the claimant's younger brother, Sh. Sitaram, was receiving pension till attaining the age of 25 years.

During the course of proceedings, some startling facts have been emerged. On 10.03.2025, the management produced the personal file of the claimant. It was revealed that the claimant's younger brother, Sh. Sitaram, was shown to have received pension till 2014 and was shown to be 15 years old at the time of their father's death. However, the personal file contained multiple affidavits with different dates of birth of Sh. Sitaram and other family members. In one affidavit, Sh. Sitaram was shown to be 22 years old at the time of death of his father. In the application addressed to the secretary, NDMC, seeking appointment on compassionate grounds, the claimant declared his own date of birth as 05.01.1985. The elder brother's date of birth was shown as 11.09.1975, while the younger brother was shown to be born in 1995. The date of birth of her elder sister, Smt. Krishna was shown

as 15.05.1971. The affidavit of Sh. Rajinder Kumar dated 07.06.2004 states that his younger brother, Sh. Sitaram, was born on 10.12.1995. Another affidavit of the claimant, Sh. Ashok Kumar, also dated 07.06.2004, shows the date of birth of Smt. Krishna, the claimant's sister, as 10.10.1985. In yet another affidavit of Sh. Rajinder Kumar dated 22.11.2004, he declared his own date of birth as 04.07.1978. In another affidavit, Sh. Sitaram was shown to have been born on 20.10.1982, while the applicant, Sh. Ashok Kumar, was shown to have been born on 05.07.1979.

Further, the noting on the personal file showed that both Sh. Rajinder Kumar and the claimant Sh. Ashok Kumar were married, whereas Sh. Sitaram was shown as unmarried. The pension record brought by the management reveal that Sh. Sitaram was shown to be entitled for family pension till he attained the age of 25 years. His date of birth was taken on the basis of a medical examination as 1989. Neither the year 1982 nor 1995 was taken into consideration. Except for a medical certificate furnished by management, nothing is found on record to establish his age. There is no document to show whether any x-ray or a bone density test was conducted for determining his age, and no such report or film in this regard has been placed on record. No reason has been assigned as to why the department deemed it necessary to medically examine Sh. Sitaram to establish his correct age.

The mention of different age of Sh. Sitaram at different places, along with different age of the claimant Sh. Ashok Kumar in their affidavits, makes the claimant's case doubtful. The claimant didn't disclose at any point that he was married or unmarried. At some places, he is shown to have been born in 1979, while at other places, his year of birth is mentioned as 1985, and the noting on record suggests that he was married.

Therefore, it appears that the claimant attempted to secure dual benefits, pension benefits to the younger brother up to the age of 25, despite claiming his year of birth as 1995 or earlier, i.e., 1982, and appointment on compassionate grounds, even though the claimant was

already married, as none of the several affidavits disclose the marital status of the claimant.

Considering the overall facts and circumstances, this Tribunal is of the view that the claimant is not entitled to compassionate appointment. Hence, issue no. 1 is decided against the claimant and in favour of the management. Consequent thereto, issue no. 2 also goes in favor of the management.

In light of the above findings, the reference is answered against the claimant and in favor of the management. Accordingly, the claim of the claimant stands dismissed. A copy of this award be sent to the appropriate government for notification under section 17 of the I.D Act. The case file is consigned to record room.

Dated 09.03.2026

ATUL KUMAR GARG
Presiding Officer
CGIT – cum – Labour Court – II