

quashment of these impugned orders with direction to respondents to provide appointment to Applicant No.2 on compassionate grounds.

2. Husband of Applicant No.1 died in harness on 21.6.2000 after a long illness. Applicant No.1 applied for appointment of her son, i.e., Applicant No.2 on compassionate ground.

3. Deceased family of the Government servant was paid a sum of Rs.5,57,750/- as terminal benefits with family pension at the rate of Rs.3537/- per month plus DA. The family consists of widow and two sons and one daughter, and out of two sons, elder son who is married and is working in Government as UDC and has been living separately.

4. Applicant was asked to furnish the requisite particulars, the matter has been referred to the Screening Committee for appointment on compassionate grounds and the case of applicant was found less deserving and was rejected in 2000.

5. Another request of applicant for compassionate appointment was made on 22.8.2001 and was considered in the Screening Committee on 24.4.2002 but was not acceded to, the same was communicated through the impugned order.

6. Deceased family is in occupation of Government accommodation. Initially, on 1.10.2002 the status-quo was maintained by this Court regarding occupation of the Government quarter. By an order dated 25.10.2002 the same was vacated.

7. Shri Anil Singhal, learned counsel appearing on behalf of applicant, contended that the decision taken by respondents is arbitrary and is against rules as the family is living in penury and has no independent source of income. As the elder son has already married and living separately and has not been supporting the family, the amount paid as a terminal benefits is not sufficient, and the family is indigent, requires compassionate appointment of Applicant No.2 to support the family.

8. It is further stated that Applicant No.2 had^h applied for compassionate appointment and was called for physical and medical examination but was denied the same with malafide intention.

9. On the other hand, respondents' counsel Shri Ajesh Luthra, strongly rebutted the contentions and stated that having evaluated by the Screening Committee, keeping in view the terminal benefits paid to applicant and the liabilities, including relevant factors, such as size of the family, age of the deceased at the time of death and age of the children, in the light of the decision of the Apex Court, in Umesh Kumar Nagpal v. State of Haryana & Others, JT 1994(3) SC 525, case of applicant was found less deserving, the same was rejected. As the family has

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not been found indigent, or in need of immediate financial assistance and moreover, the compassionate appointment is restricted to maximum of 5% of the vacancies falling under the direct recruitment quota even on reconsideration, as the case has not been covered in the guide-lines issued by the Government, the same was rightly rejected.

10. Sh. Anil Singhal has reiterated in his rejoinder, the pleas taken in the OA and stated that some extraneous factors have been considered by the screening committee which is not legally permissible.

11. I have carefully considered the rival contentions of the parties and perused the material on record.

12. Compassionate appointment cannot be claimed as right but only right is for consideration. The aforesaid consideration is to be in accordance with DoPT's guide-lines issued as per the Scheme for compassionate appointment in OM dated 9.10.1998, the Apex Court in Haryana State Electricity Board v. Krishna Devi, JT 2002(3) SC 485 held that employment on compassionate ground is to be given only on purely humanitarian consideration it cannot be claimed as a matter of right. The main object of compassionate appointment is to provide immediate financial help to the deceased family in distress but the same cannot be made in absence of rules or instructions issued by the Government.

16. However, in DoPT's OM of 1998 in Clause 10 even if there is an earning member in the family, a dependent member can be considered for compassionate appointment with prior approval of the Secretary of the Ministry is concerned, before doing so, it is to be satisfied that grant of appointment is justified having regard to the number of dependents, assets and liabilities left by the deceased Government servant and income of the earning member and also his liabilities, or whether he is supporting to other members of the family. In the event, it is found that member of the family is already in employment and is not supporting the other members of the family and then extreme caution has to be maintained in ascertaining economic distress of the members of the family so that the facility of compassionate appointment is not circumvented and misused, however, it is restricted to deserving cases. As the terminal benefits and the liabilities of the family, the case of applicant has not been found deserving, the aforesaid provision would not apply to the case.

17. Moreover, as per the Planning Commission's report, a family consists of five members would be below the poverty line, if the income is below Rs.1750/-, the same would not apply in the case of applicant as the family would not be covered by the aforesaid recommendation of the Planning Commission.

18. In the result, for the foregoing reasons, as OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

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