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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 3120/2002

This the 27th day of August, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Sh. Mahesh Yadav
S/o Late Sh. Pahlad Singh,
R/o H.No.5977-A, Mohalla Khaspura,
Near Jagat Gate Police Post
Rewari (Haryana).

(By Advocate: Sh. Alamgir)

Versus

1. Union of India through
Chief Administrative Officer,
Lady Hardings Medical College,
New Delhi.
2. Ministry of Health & Family Welfare,
Through Secretary
Govt. of India
New Delhi.
3. Ministry of Health & Family Welfare,
Through Secretary
Govt. of NCT of Delhi,
Delhi.

(By Advocate: Sh. Rajeev Bansal)

O R D E R

By Sh. Kuldip Singh, Member (J)

Applicant in this OA has challenged the order dated 30.10.2002/1.11.2002 whereby the request of the applicant for grant of appointment on compassionate grounds has been turned down by the respondents on the plea that no vacancies within the 5% quota for appointment on compassionate grounds is available.

2. The facts in brief are that the applicant's father who was working with respondents had expired on 21.8.94. Applicant and his mother made several representations for grant of appointment on compassionate grounds. The representation was not even considered. So they filed an

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OA-1271/2001 which was decided on 14.5.2002 whereby directions were given to the respondents to take decision on the application of applicant No.2 for appointment on compassionate grounds within a period of 3 months. Thereafter the present impugned order Annexure A-4 has been passed. Applicant allege that the respondents act of rejection of the representation of the applicant is discriminatory and biased. Respondents have appointed 2 persons in place of applicant No.2 during the pendency of the application of the applicant namely, Sh. Naresh and Satbir, who became eligible only after considering the case of the applicant. So respondents cannot be allowed to take the plea that no vacancies were available under 5% quota for compassionate appointment.

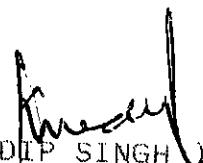
3. Respondents are contesting the OA. Respondents pleaded that the applicant had earlier submitted an application asking for a suitable post vide his application dated 19.6.95. At that time he was only 15 years old. So applicant's mother was advised to approach the respondents after attaining the age of 18 years. After attaining the age of 18 years, applicant again applied on 23.11.98. However, he made a request for appointment against a Group 'C' post since the applicant was 11th standard pass. Applicant was informed that his case for appointment in Group D can be considered, since some Group D post were available. But applicant was interested only in Group C post and it is only after a letter dated 18.1.2000, it was found that the applicant had applied again for Group 'D' post which they could not get earlier. However, the applicant was again requesting for any Group C vacancy. Since vacancies in Group C were not available and by the time Group D post has also been filled up, so now no vacancy is available.

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4. I have heard the learned counsel for the parties and gone through the record.

5. Applicant even in rejoinder denies that he had received a letter in which he was offered the Group D post and he had refused the Group D post. The letters filed on record particularly dated 23.3.2000 does show that he was informed that there is no vacancy available in Group C post and he was advised only to apply for Group D post. Meaning thereby that applicant had not been interested earlier in Group D post and it was for the first time he applied for Group D post only on 28.3.2000 and by that time the vacancies in Group D post have already become extinct as 2 persons have already been appointed.

6. Since no vacancies were available, Court cannot give direction to the respondents to create a vacancy for appointment of the applicant. Hence no interference is called for. OA is, accordingly, dismissed.


(KULDIP SINGH
Member (J)

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