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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2062/2002

This the 29th day of April, 2003

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

Shri Vinod Singh
S/o Shri Ghambir Singh
Working as Peon,
B-6, Safdarjung Fire Station,
Jor Bagh,
New Delhi.

...Applicant

(By Advocate: Sh. D.S. Mahendru)

Versus

Govt. of NCT of Delhi : Through

1. The Principal Secretary (Services),
Govt. of Delhi
5, Sham Nath Marg, Old Secretariat,
Delhi-110 054.
2. The Chief Fire Officer,
Govt. of NCT of Delhi,
Connaught Lane,
New Delhi.

... Respondents.

(By Advocate: Sh. Vijay Pandita)

ORDER (ORAL)

Applicant has filed this OA under Section 19 of the AT Act as he has a grievance that despite his earlier OA-2112/99 having been decided in his favour wherein directions were given to the respondents to reconsider the case of the applicant alongwith other similarly situated persons as per rules at the relevant time for considering his request for appointment to the post of LDC on compassionate grounds.

2. Taking into account his qualification and other requirement as laid down in the relevant OMs and regulations/instructions.

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3. Respondents have reconsidered the case of the applicant and have passed the impugned order Annexure A-1 wherein they have reiterated their stand and still infact they have not reconsidered the case of the applicant and rejected the same for posting to Group 'C'.

4. The facts as alleged by the applicant in brief are that the applicant's father was working as Foreman under the respondents and expired while on duty. Applicant applied for appointment to the respondents which was provided to the applicant vide letter dated 29.10.96 and the applicant was appointed to Group 'D' post in the pay scale of Rs.750-940. Applicant has a grievance that alongwith the applicant there were other candidates who had also applied for appointment on compassionate grounds but they were given appointment for the post of LDC whereas applicant has been given the post of Group 'D' only. Applicant accepted the post and joined as Group D but continued to make representations and had come to this Court also in the earlier OA referred to above.

5. Now the question arises whether the respondents have reconsidered the case as per directions given in the OA filed by the applicant or not. It would be relevant to reproduce direction No.1 given by the court herein below:

"The Respondents are directed to re-consider the case of the applicant along with the other similarly situated persons as per Rules at the relevant time for considering his request for appointment to the post of LDC on compassionate grounds, taking into account his qualifications and the other

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requirements as laid down in the relevant OMs and regulations/instructions (emphasis supplied)."

6. Sh. Mahendru submitted that in the impugned order respondents had taken a plea that when a person is appointed on a particular post, the set of circumstances which led to such appointment, should be deemed to have ceased to exist. Thereafter he should strive in his career like his colleagues for future advancement any request for appointment to higher post on consideration of compassion should invariably be rejected. This plea has been taken by the respondents while contesting the earlier OA. So this infact is under reconsideration in the matter and by merely reiterating their earlier plea, respondents cannot be taken to have as that they have reconsidered the matter.

7. Respondents have also taken a plea that as per the judgment of Umesh Kumar Nagpal vs. State of Haryana & Ors. the applicant cannot ask for reconsideration of his case on compassionate appointment for the post of LDC, since this plea was also earlier taken by the respondents. So the rejection of the case of the applicant by the respondents taking the same old stand is not tenable and infact it is not a real reconsideration as opined by the Tribunal in the earlier order. Thus, there is no ground with the respondents to deny the applicant a LDC post, OA should be allowed.

8. On the contrary, the respondents have referred to the scheme of compassionate appointment which was then applicable when the applicant's case was considered for appointment.

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Counsel for respondents also referred to para 14 of the scheme for compassionate appointment 1998. It is also reproduced herein below for reference:

"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 consideration of compassion should invariably be rejected."

9. It is submitted that as per the scheme, request for change in post/person cannot be entertained as the set of circumstances which led to such appointment should be deemed to have ceased to exist and the applicant can only strive for career advancement and not asked for legal protection.

10. I have considered these arguments and have also gone through the judgment given by the Tribunal. As per the directions of the Tribunal as reproduced above would make clear that the Tribunal had only given the directions to reconsider the case of the applicant alongwith the other



similarly situated persons as per rules at the relevant time. Since the rules as applicable at the time particularly in para 14 of the scheme specifically mention that the request for change cannot be entertained and the applicant has to make efforts for advancement of his career. So once having accepted the post of Group 'D' the applicant cannot ask for request of change in the post. Had the applicant not accepted the post then probably the case would have been different. The applicant, by accepting the post of Group D, had himself changed the situation and now he is to be governed by the scheme which does not allow for change in post.

11. As regards the treatment of the applicant as complained by the applicant is a discriminatory one. Since applicant has submitted that certain other persons have been appointed as LDC whereas applicant has been posted as Group D. Though the respondents had taken a plea that subsequent appointments have been given to the persons holding higher qualifications and have been posted as LDC. As per that plea is concerned it is not available to the respondents but the fact remains that this plea of the applicant was available when he was given a discriminatory treatment when he was offered the job of Group D post. But after accepting the job of Group D post he has changed his position himself now after taking the benefit of job of Group D applicant cannot complain for discriminatory treatment for reconsideration of the selection process again since it is not permissible under the scheme itself. Thus OA has not merits and the same is accordingly dismissed.



(KULDIP SINGH)
Member (J)

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