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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.3068 of 2002

New Delhi, this the 11th day of September, 2003

HON BLE MR.KULDIP SINGH, MEMBER(JUDL)

Kapil Anand
S/o Late Shri I.R. Anand
R/o C-801 Vikaspuri,
New Delhi-110 018.

...Applicant

(By Advocate: Shri Atul Kumar)

Versus

1. State Govt. of NCT Delhi
through Secretary,
Ministry of Education, Delhi.
2. Directorate of Education
(Establishment-1 Branch)
Old Secretariat,
Delhi.
3. Dy. Secretary (Services
Government of NCT of Delhi
Services Department-II)
Delhi Secretariat, 5th Level,
A-Wing, I.P. Estate,
New Delhi.

...Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R

The applicant is aggrieved of the letter dated 7.10.2002 vide which the respondents Screening Committee considered the request of the applicant for appointment on compassionate grounds but could not recommend the case of the applicant for appointment on compassionate grounds due to shortage of vacancies.

2. Facts in brief are that the applicant's father was working under the respondents and died in harness. Thereafter the applicant made an application for appointment on compassionate grounds. The applicant was called for interview by the Screening Committee. An officer from the department had visited the house of the applicant to make assessment and it is stated that the

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applicant was informed that his name stands at S.No. 72 in the panel of the persons to be appointed to the post of LDC but ultimately the applicant was informed on 7.10.2002 that his name could not be recommended because of shortage of vacancies.

3. In the grounds to challenge the same the applicant alleges that the Hon'ble Supreme Court time and again from the case of Sushma Gosain and Others Vs. U.O.1. and Others, AIR 1989 SC 1976 and Dhallaram Vs. U.O.1. and Others, AIR 1999 SC 564 has observed that object of providing compassionate appointment is to mitigate the hardship of the family due to sudden death of the sole bread earner and the family should be provided immediate relief of employment.

4. It is further stated that maintaining a quota and consequent waiting list of the candidates is against the well settled law laid down by the Hon'ble Supreme Court so the applicant submits that since he was interviewed and was found to be within the framework of the scheme so applicant is entitled to be given a job on compassionate grounds.

5. The respondents are contesting the OA. The respondents pleaded that the Hon'ble Supreme Court in the case of Auditor General of India Vs. G. Ananta Rajeshwar Rao, 1994 (1) SCC 192 has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution of India but if the Government servant who dies in harness and who needs immediate appointment on the grounds of immediate need of assistance, in the event there being no other earning member to supplement

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the loss of income from the bread earner to relieve the economic distress of the members. But in the case of U.K. Nagpal Vs. State of Haryana reported in JI 1994 (3) SC 525 where the Hon ble Supreme Court has observed that mere death of an employee in harness does not entitle his family for such source of livelihood on compassionate grounds. But the only ground which justified the compassionate appointment is the penurious condition of the family.

6. The respondents also pleaded that in this case the applicant has been granted terminal benefits of about Rs.5,64,340/-. Besides that the family is getting family pension of Rs.3650/- and the applicant himself is married one and they also own a house as per the application of the applicant himself so their condition are not so penurious that they should be granted appointment on compassionate grounds.

7. It is denied that the screening committee had called the applicant for interview and the screening committee did not recommend the case of the applicant after taking a balanced view in each case.

8. It is further stated that the vacancies available on compassionate appointment are only 5% of vacancies under direct recruitment. Each year applications received for compassionate appointment are much higher than the vacancies available for this purpose. Hence, only really deserving applicants whose conditions are extremely pathetic are given the priority and as such applicant is not entitled for appointment on compassionate grounds.

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9. I have heard the learned counsel for the parties and gone through the records of the case.

10. Though the applicant has challenged that quota system should not be there for appointment but I do mention that the 5% quota out of the direct recruit vacancies available in a year have been kept for appointment on compassionate grounds as per the guidelines issued by the DOP&F which in turn is based on various Hon'ble Supreme Court judgments and the applicant cannot say that the respondents should be directed to fill up vacancies beyond the quota of 5% available to them.

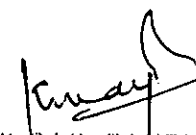
11. On the spect of financial condition also I find that the application form submitted by the applicant himself show that the applicant's family had received sufficient terminal benefits and they are living in their own house at Vikas Puri so the condition of the family cannot be said to be under immediate financial crisis or there is none to earn bread for the family so the case of the applicant has been rightly rejected by the Screening Committee.

12. I have also gone through the record produced by the respondents which contains minutes of the Screening Committee held on 12.7.2002 to consider the case of the persons to be appointed on compassionate grounds. There were total 471 cases and the screening committee had followed a certain criteria as to who should be given the appointment. The committee had adopted different procedure such as the first priority for the family who are living in extremely indigent

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circumstances and having all children who are less than 12 years of age and no other source of livelihood e.g. rent, ownership of house etc. Next consideration can be given to cases where the family is in extremely indigent circumstances and has minor children less than 18 years of age and no other source of income and in this case the applicant does not fit in the criterion adopted by the screening committee and there are more deserving cases than the case of the applicant, so I find that the case of the applicant has been rightly rejected. No interference is called for.

13. In view of the above, OA has no merits and the same is dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDGE)

Rakesh