

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 3257/2002

New Delhi this the 21st day of May, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Ishwar Singh,
Father-in-law of
Smt. Sumitra Devi,
Old Jhajjar Chungi,
Jhajjar Road, Rohtak,
(Haryana)

-Applicant

(By Advocate Shri S.D. Kinra)

-Versus-

The Commissioner of Police,
Govt. of N.C.T. of Delhi,
Police Headquarters,
Indraprastha Estate,
New Delhi-110 002.

-Respondents

(By Advocate Shri Ajesh Luthra)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicant, father in law, of late Head Constable seeks appointment of his grand son on compassionate basis and has impugned the order of rejection of his request contained in respondents' communication dated 3.7.2002.

2. Deceased Sumitra Devi, who was working as Head Constable died as a result of suicide. Her husband Sh. Virender Singh was sentenced under Section 306 IPC to undergo imprisonment for six years. Family of the deceased consisted of two sons and one daughter adopted.

3. Applicant and his wife were paid admissible terminal benefits and family pension of Rs.2500/- per month. Applicant's grand son applied for compassionate appointment immediately on the death of his mother but as he was minor, by an order dated 10.10.96 he was advised to apply for the suitable post on attaining majority. In 2000

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when the grand son attained majority he applied for compassionate appointment and was asked to undergo physical measurement and was medically examined. Later on in a screening committee his case was not found deserving as compared to others and request was turned down, giving rise to the present OA.

4. Learned counsel for applicant Sh. K.D. Kinra contended that the family is destitute in dire need of financial assistance. In so far as not impleading the grand son who has applied for compassionate appointment, it is contended that in a similar case of Nirmala Devi v. Commissioner of Police, OA No.3431/2000, decided on 8.5.2002 the aforesaid objection was turned down. Moreover, by referring to the terminal benefits and amount of family pension it is contended that family is living in penury and in the light of the decision of the Apex Court in Balbir Kaur v. Steel Authority of India, JT 2000 (7) SC 136 it is contended that pension is not a substitute and terminal benefits cannot be the sole consideration for judging the right of compassionate appointment, which can be given even on creation of supernumerary post.

5. Learned counsel assails the order as being without application of mind and without any reasons in support.

6. On the other hand, respondents' counsel Sh. Ajesh Luthra strongly rebutted the contentions and stated that case of applicant's grand son was considered by a screening committee and after examining the financial conditions of the family, assets, liability and other

relevant factors like time of death, age of children and in the light of DOPT OM dated 9.10.1988 case of applicant's grand son has not been found to be deserving as compared to others and the fact that appointment is restricted to only 5% vacancies under direct recruitment appointment was not offered which does not suffer from any legal infirmity.

7. In so far as calling the grand son of applicant to attend office it is stated that the same was a pre-condition for consideration before the screening committee.

8. However, placing reliance on a decision of the Apex Court in Life Insurance Corporation of India v. Smt. Asha Ramchandra Ambedkar, JT 1994 (2) SC 183 it is contended that sympathy cannot be the sole basis for directing compassionate appointment and without any vacancy under the relevant quota this Court has no jurisdiction to order appointment.

9. However, as a preliminary objection it is contended that as the person who has sought appointment has not been impleaded, OA is not maintainable for non-joinder of necessary parties.

10. I have carefully considered the rival contentions of the parties and perused the material on record. The contention put-forth by applicant that as the impugned order is addressed to the grandfather there is no requirement to implead the person who is seeking appointment and his reliance on Smt. Nirmala Devi's case (supra) is misconceived and unfounded. As the person,

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i.e., grand son who is seeking appointment has not been impleaded as an applicant, OA is bad in law for non-joinder of necessary parties.

11. In so far as merits are concerned, compassionate appointment cannot be claimed as a matter of right and within the judicial purview of this court is direction for consideration. Applicant's grand son who attained majority in 2000 applied for compassionate appointment and having regard to the retiral benefits and the fact that appointment is restricted to only 5% of the quota assigned in direct recruitment after hectic consideration from all, including family, has not been found really deserving as compared to others, I do not find any legal infirmity in the orders passed by the respondents.

12. However, this Court in OA-2706/2001, Himmat Singh v. Union of India decided on 7.5.2003, this court after enumerating all the notifications and law on the subject has summarised the guidelines and in this view of the matter case of grand son of applicant is not covered within the ambit of the guidelines.

13. In the result, for the foregoing reasons, as I do not find any infirmity in the orders passed by the respondents, the OA is dismissed being bereft of merit. No costs.

S. Raju
(Shanker Raju)
Member (J)

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