

(24)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2550 OF 2001

New Delhi, this the 21st day of October, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Meena Sinha,
W/o Late Shri D.P.Sinha,
Qr.No.1002, Sector-XII,
R.K.Puram,
New Delhi

2. Dipti Sinha,
D/o Late Shri D.P.Sinha,
Qr.No.1002, Sector-XII,
R.K.Puram,
New Delhi.

.....Applicants

(By Advocate :Shri H.P.Chakravorty with Shri S.K.Arya)

Versus

Survey of India,
Office of the Director,
Survey (AIR)
2nd Floor, Wing IV,
West Block No.4,
R.K.Puram,
New Delhi-110066

.....Respondents

(By Advocate :Shri M.M.Sudan)

ORDER (ORAL)

This application under section 19 of Administrative Tribunals Act, 1985 has been filed by Smt.Meena Sinha, widow of the deceased Govt.employee late Shri D.P.Sinha and Dipti Sinha, daughter of the deceased employee.

2. The only prayer of the applicants is that the Applicant No.2 Dipti Sinha, daughter of the deceased employee be offered compassionate appointment.

3. It is stated that the father of the Applicant No.2 was working on the post of Head Clerk when he died in harness on 23.6.98. Thereafter, the applicant no.1 requested the respondent to give the job to

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Applicant No.2. Learned counsel stated that the request of the applicant has been rejected by the impugned order dated 30.10.2001 on the sole ground that there was no vacancy within 5% quota of LDC on compassionate ground. Learned counsel urged that this ground of rejection is uncalled for. According to him, the post could be filled in even in excess of 5% quota of the vacancies if the case of the applicant was deserving one. He also pointed out that there is no details available as to why others have been given appointment whereas the case of the applicant has been rejected.

4. Learned counsel of the respondents stated that there are several applications for limited numbers of vacancies. Therefore, the respondents have to assess the relative merit of each case and ^{only} in most deserving case the candidate is offered appointment on compassionate ground. ✓

5. I have heard the learned counsel of both the parties and have perused the materials available on record.

6. The respondents have stated in their reply that only in most deserving cases and that too within a ceiling of 5% of vacancies falling under DR quota in any Group 'C' post is offered as per the guidelines of DOPT dated 9.10.98. It has been stated that there are as many as 266 cases and only 32 posts were available which could be given to such applicants who come within that 5% limit. The Committee for considering the compassionate appointment considered various

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aspects like the liabilities left behind by the deceased employee; the age and the length of service of the deceased employee at the time of his death; number and age of dependent family members of the deceased employee and source of the surviving members of the deceased's family. Taking into all these factors, the applicant was not found coming within that limit of 5% quota of the vacancies to be filled by compassionate appointment. The contention of the learned counsel is well founded. The Hon'ble Supreme Court in UOI & Ors. Vs. Joginder Sharma (2002(7) SCALE 141 has held that there is no relaxation of 5% ceiling in the scheme of compassionate appointment. Therefore, the contention of the learned counsel regarding relaxation of 5% ceiling is rejected.

7. It is well settled law that the object of the scheme of compassionate appointment is to render immediate help to the surviving members of the deceased's family after the loss of bread-winner. It is also well settled that the compassionate appointment is not back door entry to employment in a Govt. service. The Hon'ble Supreme Court in the case of Haryana Electricity Board Vs. Hakim Singh (1999 (1) SLJ 114) has held that one of his heirs cannot put forward a claim as though it was a line of inheritance. This Tribunal cannot sit in appeal on the judgment of the Committee considering the cases of compassionate appointment. The interference in the decision of the administration can be made if the order passed by them is against the principle of natural justice or if there is any violation of any guiding principles of the scheme of compassionate appointment. It is not so in this case and, therefore, no interference is called for.

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8. In the circumstances, the OA is dismissed. No order as to costs.

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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