

Central Administrative Tribunal
Principal Bench

O.A.No.2688/2001

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 24th day of May, 2002

Bimla Devi
w/o Late Sh. Suraj Pal
r/o A-211, Aliganj
Kotla Mubarakpur
New Delhi.

... Applicant

(By Advocate: Shri Anil Singhal)

Vs.

1. The Secretary
Cabinet Secretary
North Block
New Delhi.

2. The Director
Administration
A.R.Center
CGO Complex
Lodi Road
New Delhi.

3. Director - Administration DGS
Cabinet Secretariat
East Block
R.K.Puram
New Delhi.

.. Respondents

(By Advocate: Shri Rajinder Nischal, through Shri
Inderjit Singh)

O R D E R (Oral)

By Shanker Raju, M(J):

Applicant, in this OA, assails an oral order terminating her services and has sought for reinstatement with all consequential benefits, including arrears and also sought issuance of formal appointment letter with accord of seniority and other consequential benefits. She has also prayed for institution of contempt proceedings against respondents for wilful defiance of an order passed by this Court on 7.12.1999 in OA 1181/99, which was earlier filed by her.

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2. I have heard both the parties and perused the material on record. Applicant earlier has approached this Tribunal in OA 1181/99 for compassionate appointment, which was disposed of on 7.12.1999, with the following directions.

"In the background of position of law, as aforesaid and the detailed facts, the OA allowed with the following directions:-

- i. The respondents shall consider the case of the applicant for appointment on compassionate ground against a suitable Group - D post within a period of 8 weeks from the date of receipt of a copy of this order.
- ii. While considering the applicant's case, the respondents shall keep in mind that the applicant belongs to scheduled caste community.
- iii. The applicant shall also be informed of the position accordingly within a period of three months from the date of receipt of a copy of this order.
- iv. No costs."

3. In compliance thereof, the respondents have constituted a compassionate appointment committee and having regard to the parameters provided in DoPT's OM dated 9.10.1998, have not found the applicant fit and not deserved in comparison to others in the order of merit, for compassionate appointment and after taking a sympathetic view, applicant was engaged on casual basis as Safai Karmachari on 1.10.2001. An artificial break was also given and thereafter applicant was again engaged on availability of work and is still continuing.

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4. Learned counsel for applicant has stated that for compassionate appointment, it is incumbent upon the respondents to issue an appointment letter and the incumbent cannot be posted ~~on~~^h casual basis but has to be put on ad hoc basis. It is also stated that by referring an order sheet dated 7.5.2002 whereby respondents have been directed to file an additional affidavit supported by the documents stating that the Committee has applied its mind while rejecting the case of the applicant and directions contained in earlier OA have been meticulously complied or not. Rather learned counsel for respondents has furnished to me a copy of the additional affidavit which has not supported by any documents but in their affidavit they ~~have~~^h stated that the case of the applicant was considered in accordance with the DoPT's Scheme and as the same was not found fit to be accorded compassionate appointment on regular basis and in view of the other meritorious persons than the applicant, the applicant was not offered any compassionate appointment. However, it is stated that in the earlier OA what has been directed was to consider the case of the applicant for compassionate appointment. As they have already made this consideration, there is no wilful defiance of the earlier orders of this Tribunal. It is also stated that compassionate appointment cannot be claimed as a matter of right and is to be given in the facts and circumstances of each case. As regards the production of documents of compassionate appointment committee, it is stated that the same are not required for the adjudication of the present controversy as the respondents have taken a conscious decision and although they were not bound to

give any casual appointment to the applicant but keeping in view of the immediate financial assistance she has been offered appointment on casual basis which is still continuing and is to be continued till the availability of work.

5. Having regard to the submissions made and the decision of the Apex Court in Haryana State Electricity Board Vs. Krishan Devi, JT 2002(3) SC 485 where the following observation have been made by the Apex Court:

"It is well-settled that employment on compassionate ground is given only on pure humanitarian consideration and no appointment can be claimed as a matter of right. The main object was to provide immediate financial help to the family of the deceased employee. It is also well-settled that employment under compassionate ground cannot be made in absence of rules or instructions issued by the government or any public authority."

6. I am of the considered view that the respondents have acted in accordance with DoPT's OM of 1998 and having considered the case of the applicant and found her not fit, as compared to other 17 candidates, as such her compassionate appointment has been rightly rejected.

7. Compassionate appointment is not an alternative mode to enter into Govt. service and is to be given for immediate financial assistance to the family of the deceased Government servant. As the applicant has been offered engagement on casual basis and as there has been a ban on recruitment, as well as keeping in view of her merit in comparison to others, action of the respondents cannot be found fault with. I do not also consider necessary, having regard to the

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averments of the respondents, to call for the records of the compassionate appointment committee to adjudicate the matter further.

8. The contention of the learned counsel for applicant that the compassionate appointment is to be given on ad hoc basis and the applicant should have been issued appointment letter, cannot be countenanced, as what has been directed, earlier in the OA, is consideration, which is meticulously done and applicant has been engaged on casual basis.

9. In the result, OA is bereft of merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/