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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.757/2001

New Delhi, this the 13th day of September, 2001

Manoj Kumar
s/o Late He Jai Singh 15/T
r/o Vill. Machhrola P.O.Murthal
Distt. Sonapat Haryana.

.. Applicant

(By Advocate: Shri Surat Singh)

Vs.

1. Govt. of NCT through
Dt. Governor
Delhi.
2. Commissioner of Police
Police Head Quarters ITO
New Delhi.
3. Dy. Commissioner of Police (Traffic)
New Delhi. ... Respondents

(By Advocate: Shri Ranjan Sharama through Shri
Ashwani Bhardwaj)

O R D E R (Oral)

By Shanker Raju, Member (J):

This application has been made by a legal heir, son of the deceased Government servant, Head Constable Jai Singh, who was employed in Delhi Police and died in harness on 4.11.1982. The family at that time consists of six members including the wife, daughters and sons. The applicant was at that time two years of age. On attaining the majority, the applicant was paid certain benefits pertaining to the DCRG, etc and other benefits amounting to Rs.6228/- as reflected from the order passed by the respondents on 16.4.1984. The applicant thereafter applied for compassionate appointment, the matter has been considered by the respondents and thereafter by an order dated 2.6.1999, the respondents rejected the

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claim of the applicant in view of the ratio of the Apex Court in Umesh Kumar, Nagpal Vs. State of Haryana, 1994(4) SCC 138. Hence the present OA.

2. The learned counsel for the applicant states that once a notice has been issued in the OA and the pleadings are complete, at this stage, the question of limitation does not arise. He also states that the family of the deceased was indigent and is still under financial crises. As regards the ownership of house by the applicant, it is contended that the same is an ancestral property out of the shares have been made and has been wrongly valued at Rs.35,000/- which is in a remote village near to Sonapat. The learned counsel for the applicant states that as soon as the applicant attained majority, he requested the respondents for compassionate appointment and this could not have been done earlier as the applicant was not eligible. Lastly, he submits that the case of the applicant has been arbitrarily and discriminatorily rejected whereas number of other wards of deceased Government servants have been accorded compassionate appointment by the respondents and the applicant even belonging to most indigent circumstances, his case for compassionate appointment has been rejected arbitrarily.

3. On the other hand, strongly rebutting the contentions of the applicant, the learned proxy counsel for the respondents produced the original record to show that the wife of the deceased had been paid a sum of Rs.17,600/- as pensionary benefits and she is drawing family pension of Rs.1275/- plus D.A.

has been acknowledged by the applicant by signing on the declaration. It is also stated that as per the enquiry conducted from the local police, it has been transpired that the applicant and the other members of the family have their own house valued Rs.35,000/-, measuring 50 Sq. Yrds at village Machhroia, Dist. Sonapat (Haryana). The learned counsel for the applicant states that the orders have been passed by the respondents rejecting the claim of the applicant on 2.6.1999 whereas the OA was filed on 21.3.2001 which is beyond the period of limitation. As no MA has been filed by the learned counsel for the applicant for condonation of delay, the same cannot be condoned suo moto by this Court and for this he placed reliance on the Apex Court in Ramesh Chand Sharma Vs. Udham Singh Kamal and Others, 1999(8) SCC 304. The learned counsel for the respondents further states that applicant has not come with clean hands as it is reflected the financial conditions of the family as exited upto 1984 and he apprised the Court about the financial conditions when the case was considered for compassionate appointment. It is also stated that the applicant has suppressed certain information regarding marriage of two daughters and further stated that in case the family is not indigent and the paramount consideration for accord of compassionate appointment is the immediate financial assistance to the family and having not availed the same, at the time of demise of the Government servant, the same cannot be resorted as an alternative mode for getting Government job at this belated stage. To support his contentions, the learned counsel for the respondents has placed reliance on a decision of the Apex Court in Haryana

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State Electricity Board and Another Vs. Hakim Singh, 1997(8) SCC 85 wherein the petitioner who had made request for compassionate appointment, after attaining the majority, after 14 years it has been observed that the family members of the deceased employee can manage for 14 years after his death, one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance to obtain the Government job. Whereas the object of the compassionate appointment is to give succour to the deceased family to tide over the sudden financial crises befallen the dependents on account of the untimely demise of its sole earning member. In this view of the matter, it is stated that the respondents after taken into considerations all aspects and as provided under the Scheme framed by the 1998 for compassionate appointment, the claim of the applicant has been rightly rejected.

4. I have carefully considered the rival contentions of both the parties and also perused the pleadings available on record and also perused the official record produced by the respondents' counsel and returned the same to him. As regards the limitation is concerned the present OA is clearly barred by limitation as envisaged under Section 21 of the Administrative Tribunals Act, 1985. Having received the order passed on 2.6.1999, the applicant could have approached this Court within one year and he failed to do so and filed this OA on 21.3.2001 without filing an MA for condonation of delay, this Court in view of the Ramesh Chand Sharma's case supra this Court has no jurisdiction to suo moto condone the

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delay as such the OA is not maintainable by virtue of Section 21 of the Administrative Tribunals Act, 1985. However, in the interest of justice, I also consider the case on merits. In my considered view the object of compassionate appointment is to help indigent family who has only a dependent earning member who died in harness and to provide financial assistance. The compassionate appointment is restricted only to 5% of the vacancies that cannot be resorted to by way of alternative mode of employment in Government service. The family was given a sum of Rs.18,000/- and pensionary benefits at the time when the applicant was two years of age. During this interregnum period, the family carried two daughters and the pension had been revised from time to time. Apart from getting these financial benefits the applicant has owned a house in her name and in the name of the family too which the applicant has not disclosed in his application and rather he had denied to have any house in the name of the family which clearly shows that the applicant has not approached this Court with clean hands. After perusal of the records produced by the respondents, I am satisfied that rightful consideration has been made to the claim of the applicant and in consonance with the ratio laid down by the Umesh Kumar Nagpal's case and also other pronouncements on the subject, the respondents have rightly rejected the claim of the applicant. Apart from it, taking support from the ratio in Hakim Singh's case supra as deceased family had managed to live for 14 years without any financial assistance or any alternative job offered to them, the legal heirs, i.e., son, cannot be fulfilled to claim as a line of succession to get the Government Job

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which otherwise is amenable to a regular selection process to which the applicant has not subjected to. As such in my consider view the family is not indigent and is not entitled for accord of compassionate appointment. In this view of the mattter respondents have rightly not accorded the claim of the applicant as not found it on merits too. The OA is accordingly dismissed on limitation as well as on merits. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

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