

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 1058/99

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New Delhi this the 10th day of January, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Bhaskar Chotani,
S/O Shri S.K. Chotani (Ex. TGT),
N-2/41-A, Gurdwara Road,
Mohan Garden, Uttam Nagar,
New Delhi-110059

.. Applicant

(None for the applicant)

Versus

1. Government of NCT of Delhi through
Chief Secretary, Delhi Administration,
Old Sectt., 5, Sham Nath Marg,
Delhi.

2. Director of Education,
Directorate of Education
(Establishment Branch)
Old Secretariate, 5 Sham Nath Marg,
Delhi.

.. Respondents

(By Advocate Shri Rajinder pandita)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by the order passed by the respondents dated 8.6.1998 rejecting his request for appointment on compassionate grounds on the death of his father who was working as TGT in Directorate of Education, Delhi Administration who had expired on 4.2.1996.

2. This is the second round of litigation filed by the applicant. He had filed an earlier application (OA 656/97) which was disposed of by the Tribunal's order dated 7.1.1998. In this order, certain observations have been made that the respondents have rejected the application for appointment on compassionate ground by memorandum giving no reasons whatsoever for rejecting his representation or request for re-consideration. It was also noted that the respondents in their reply have

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stated that they had asked the applicant to furnish the particulars of having spent Rs.1.5 lacs on the treatment of his father but it was not mentioned as ^{a B.} ground in the impugned orders. In the circumstances, it was opined that the respondents have not properly considered the request of the applicant for compassionate appointment. Accordingly they were directed to give proper consideration of his request in ^{the manner they B.} ~~which they ought to have~~ considered the case of another person, namely, Sh.Naveen Pathak, which should also be taken into consideration while deciding the applicant's case. In pursuance of the Tribunal's order dated 7.1.1998, the respondents have passed the impugned order dated 8.6.1998.

3. The applicant has set out the facts in paragraph 4 of the OA including his educational qualifications. He has also referred to the representations made by his mother for his compassionate appointment and that he had furnished requisite details of his family's financial circumstances to the respondents for their due consideration. According to him, as per the DOP&T letter dated 30.6.87, the sons/daughters and near relatives of deceased Govt.servants are entitled ^{B.} ~~for~~ appointment on compassionate grounds ^{as the B.} ~~in place of~~ Govt.servant who dies in harness leaving ^{ES} ~~his~~ family ⁱⁿ immediate need of assistance when there is no other earning member in the family. He has also referred to the other relevant orders on the subject. According to him even after the Tribunal's order was given on 7.1.98, the respondents have not re-considered his case properly or on similar grounds as that of Naveen Pathak which they were directed to do by the Tribunal. He has contended that the facts given in the impugned order dated 8.6.98 are not correct as Shri B.D.Pathak had ~~two~~ wives, although from the first wife he had only one son i.e Naveen Pathak and the children from the second wife cannot be given any legal status as per law. According to him, the impugned order has, therefore, been passed completely ignoring the applicant's request for compassionate appointment and the relevant rules and instructions.

4. ^{18/11} ~~None~~ ⁹ has appeared for the applicant even on the second call. This case was listed at Serial No.5 in today's regular hearing list. I note that none had appeared for the applicant on 10.12.99 and 5.1.2000 and even today. I have carefully perused the records and heard Shri Rajinder Pandita, learned counsel for the respondents.

5. In the impugned order dated 8.6.98, the respondents have referred to the relevant facts and grounds for their decisions. It is also noted that they had given an opportunity to the applicant and his mother to appear and be heard before the Director on 17.3.1998. In the Tribunal's order dated 7.1.1998, reference has been made to the applicant having spent Rs 1.5 lacs on the treatment of his father. In para 4 of the impugned order, the respondents, have, however, submitted that the applicant had not produced any additional document in support of his case for compassionate appointment. They have also discussed the grounds on which Shri Naveen Pathak, son of late Shri B.D.Pathak, was appointed on compassionate ground wherein they have submitted that Shri B.D.pathak died in harness leaving behind his widow and three sons and one daughter (all minor) and there was none to support the family. This does not appear to be the case of the applicant as it is stated that widow is the only liability of one grown up son i.e. ^{the 18/11} applicant and herself. It is also relevant to note that the family of the deceased had received Rs. 3,59,137/- on account of terminal benefits which has also been noted in OA 656/97. On perusal of the grounds taken in the impugned order, it cannot, therefore, be stated that the respondents have acted in an arbitrary or unreasonable manner in rejecting the applicant's request for compassionate appointment or they have not taken into account the relevant facts, rules and instructions on the subject. The respondents have also stated that the applicant's mother i.e.

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widow of the deceased Govt. servant is also being paid an amount of Rs.1018/-per month as a family pension.

6. Applicant has relied on the judgement of the Hon'ble Supreme Court in Sushma Gosain Vs. Union of India (AIR 1989 SC 1976) in which the Supreme Court has observed that appointment on compassionate ground should be considered with a sympathetic view, kindness and generosity. What has been held in that judgement is that ⁱⁿ all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate grounds is to mitigate the hardship due to death of ^{the} bread earner in the family. In another judgement of the Hon'ble Supreme Court in LIC of India Vs. Mrs Asha Rama-Chandra Ambekar and Anr. (JT 1994(2)SC 183), the Supreme Court has held ^{that is} "it is true that there may be pitiable situations but on the score, the statutory provisions cannot be set aside."

7. Shri Rajinder Pandita, learned counsel has relied on the judgement of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and Ors (JT 1994(3)SC 525) in which the Apex Court has observed that the compassionate employment cannot be granted after a lapse of a reasonable period. Further it was held "that the consideration for such employment is not a vested right and it must be remembered in this connection that as against the destitute family of the deceased, there are millions of other families which are equally, if not more destitute."

8. Having regard to these judgements and the relevant DOP&T rules and instructions and taking into account the family circumstances of the applicant and his widowed mother, I am unable to agree with the applicant's contention that the respondents have not sympathetically considered his request. The distinction drawn in the case of Naveen Pathak on the ground that there were three minor childrens and none to support them in these circumstances

is reasonable and acceptable, and that cannot be a ground to justify any interference in the present case.

9. In the result for the reasons given above the application fails as no grounds have been shown to justify setting aside the impugned order dated 8.6.1998. OA is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)