

2

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1218 of 1999

New Delhi, this the 24th day of May, 1999

HON'BLE SHRI N.SAHU, MEMBER(A)

W/ASI (Ex.) Mithlesh,
No. D/3294
P.T.S. Jharoda Kalan
Delhi-110072.

-APPLICANT

(By Advocate: Ms.Jasvinder Kaur)

Versus

1. Lt.Governor, Delhi
Raj Niwas, Raj Niwas Marg,
Delhi.

2. Commissioner of Police, Delhi
Police Head Quarters,
MSO Building, IP Estate,
New Delhi-110 002.

-RESPONDENTS

O R D E R (ORAL)

By Hon'ble Shri N.Sahu, Member(A)

Heard Ms.Jasvinder Kaur, learned counsel for the applicant.

2. The applicant in this O.A. seeks direction to consider her for the post of Sub-Inspector with effect from 1.5.95 and also seeks a direction to the respondents to pay her arrears and other pay perks.

3. Impugned is the order dated 12.5.98 by which the respondents have chosen not to forward the applicant's representation to the Lt.Governor. The facts of the case are briefly as under.

4. The applicant's husband Shri Om Prakash was declared permanently incapacitated for further police service by the Medical Board on 10.1.93. This event

happened after the applicant's husband had put in 26 years of service. The Commissioner of Police, who is respondent no.2 here, has considered her representation and appointed her on compassionate grounds to the post of A.S.I.(women) with effect from 1.5.95. Four years have passed. After that if there was any grievance, the applicant should have moved then and there. After putting in four years of service as ASI(women), she cannot now move the Tribunal. Non-forwarding of the representation is no ground at all. This application is hit by the provisions of limitation and is barred.

5. Even on merits, there is absolutely no case for the applicant to question her appointment as ASI(women) and seek appointment as S.I. The concept of compassionate appointment is an aberration from the normal mode of appointment. It displaces the Constitutional mode of appointment by competition and merit approved under Sections 14 and 16 of the Constitution of India. Any appointment to a public office can only be done strictly under the rules and in accordance with procedure prescribed under the rules by open competition or selection on merit, subject to the quota system prevalent. Compassionate appointment displaces that. It is given purely on compassionate grounds to assist the family suffering from penury by the loss of earnings of the sole bread winner. The respondents have, in their wisdom, considered the applicant's case and given ASI's job. The question of discrimination would not arise in such a circumstance. Medical incapacitation or death in the career of a Govt. servant are very very rare. It is not as though that two

similarly placed persons are not treated similarly. We cannot question discretion of the appointing authority in this regard. It is not necessary for me to issue a notice because a compassionate appointment is confined only to group 'D' and group 'C' posts and further it is strictly within certain minimum conditions of qualification and eligibility for which there are adequate powers of relaxation in the hands of the appointing authority. The discretion exercised by the appointing authority has not been challenged as malafide. After four years of service, the applicant cannot now come and say that discrimination has been done to her. In my view, the question of discrimination in this case does not arise.

6. Compassionate appointment is given purely on the ground of pitiable financial conditions of the surviving members of the family and that too, keeping in view the long tenure of service rendered by the incapacitated person. Therefore, in compassionate appointment, there is no question of discrimination.

7. For the above reasons and following the principles laid down for this purpose in a number of pronouncements of the Supreme Court, I do not think this is a fit case for admission. The O.A. is dismissed in limine at the admission stage.


(N. SAHU)
MEMBER(A)

/dinesh/