

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.275/99

New Delhi, this the 10th day of February, 1999

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

Gajender Kumar
Quarter No.D-36, N.P.L.
Kingsway Camp,
Delhi.

....Applicant

(By Advocate: Shri D.S.Garg)

Versus

Union of India, through

1. The Commissioner of Police, Delhi
Police Headquarters,
I.T.O., New Delhi.

2. The Lt. Governor
NCT of Delhi,
Raj Niwas,
Delhi

....Respondents

O R D E R

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

In this O.A., the relief prayed for is to direct the respondents to give the applicant appointment to the post of a Cook by quashing the impugned order dated 6.1.98. This is a case of compassionate appointment. The applicant's father late Shri E.M.Bahadur, who was Constable in Delhi Police, died on 14.10.87 after crossing 55 years. He served the Delhi Police for nearly 14 years. In the impugned order dated 6.1.98, the respondents rejected the applicant's claim in the light of the decision of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana - (1994) 27 ATC 537. Shri Bahadur, applicant's father having died in October, 1987, the respondents considered it inappropriate to offer compassionate appointment after 11 years. That the family had been able to manage and survive all these 11 years is itself proof positive that they have means of livelihood

(3)

and do not require a compassionate appointment to assist them. The second fact noticed was that the eldest son of the deceased namely Constable Hari Thapa resided in the Govt. quarter at No.D-36, New Police Lines, Kingsway Camp, Delhi-110009. Thus at the time of Shri Bahadur's death, the family resided in a Govt. quarter allotted to Constable Thapa out of turn. That apart, the wife of Shri Bahadur is now drawing a family pension of Rs.1275/- plus 22% by way of admissible D.A. There was pensionary benefit of Rs.43,718/-. The respondents, therefore, held that the financial condition of the family members is not so precarious so as to justify the compassionate appointment. They also found that there are no vacancies in Group 'C' or 'D' posts. The competent authority, namely, the committee set up for this purpose, held that there is no case for compassionate appointment in the light of the decision of the Hon'ble Supreme Court cited supra.

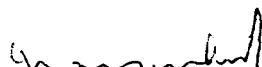
2. Learned counsel for the applicant states that the respondents themselves, by orders dated 24.8.94, 11.10.94 and 28.4.95, offered the applicant the job of a Cook. Obviously, at that time, he did not accept the offer but sought the job of a Constable and later on as a Painter. His request was considered and rejected on the ground of physical-unfitness. Since the applicant did not respond to the offer in 1994 and 1995 to the job of a Cook, the respondents were not in a position to consider the applicant in 1997 and 1998 for the same post.

3. I have carefully considered the averments made in the O.A. and the submissions of the learned counsel during the arguments on admission. I am satisfied that

(A)

this is a fit case where the claim for compassionate appointment cannot be considered and the request has been rightly rejected. It is totally against the law laid down by the Hon'ble Supreme Court in Nagpal's case (supra) to consider a claim of compassionate appointment after the lapse of 10 years. In this case, the eldest son is already holding a permanent job and the whole family stays in a Govt. accommodation. The widow is drawing her pension. Thus, there is a presumption that the entire family is able to survive and there is no need for any assistance by way of compassionate appointment.

4. The O.A. is dismissed in limine at the admission stage. No costs.


(N. SAHU)
MEMBER(A)

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