

Central Administrative Tribunal, Principal Bench

O.A. No. 562 of 1999

New Delhi this the 16<sup>th</sup> day of November, 1999

Hon'ble Shri Kuldip Singh, Member (J)

Ashok Kumar S/o Late Shri Ved Ram  
R/o Vilaghe & Post Office Chakar Pur,  
District Gurgaon (Haryana).

Applicant

By Advocate Shri J.S. Malik.

Versus

1. Commissioner of Delhi Police,  
Police Headquarters,  
Inder Parsat Estate,  
New Delhi.
2. The Deputy Commissioner of Police  
Headquarter (I),  
Delhi, District: New Delhi.
3. Additional Dy. Commissioner of Police,  
HQ (P), New Delhi, District: New Delhi.
4. ACP/HQ (P) Inder Parsat Estate,  
New Delhi.
5. Union of India through Secretary, Home,  
North Block, New Delhi. Respondents

Shri Alok, proxy counsel for Shri Jog Singh, Counsel for the respondents.

ORDER

The applicant in this case is a son of a deceased employee of the respondents who had died in harness. His father was working as ASI (Driver) with Delhi Police. He died at the age of 53 years. The applicant alleges that his mother Smt. Anguri Devi had submitted an application for compassionate appointment of the applicant as a Constable with Delhi Police as the family left behind by the deceased had no source of income or survival except meagre family pension. The request of the applicant was rejected vide impugned order Annexure A-1. The applicant's mother made a representation thereafter, but the same was also rejected.

2. The applicant also claims that his case was strongly recommended by the Additional Commissioner of Police Dr. A.K. Singh but still the respondents had rejected his request for giving him an appointment as Constable on compassionate grounds so he prays that the order dated 4.8.97 and 12.9.97 be quashed as being arbitrary and unjust and the respondents be directed to consider the case of the applicant for constable on compassionate grounds.

3. The respondents contested the OA and have taken a plea that the application is time barred. Besides that it is pleaded that the applicant's father had died after rendering about 33 years of service. The widow had been paid retiral benefits amounting to Rs.3,67,817.00 and a family pension of Rs.2554/- is also being paid. Besides that family had agricultural land at Village Chakarpur, District Gurgaon. So there is no indigency and, therefore, the O.A. should be rejected.

4. I have heard the learned counsel for the parties and have gone through the records.

5. The learned counsel for the applicant submitted that it is a fact that the Additional Commissioner of Police, Dr. A.K. Singh had recommended the case of the applicant for being considered for compassionate appointment. But vide order Annexure A-1 dated 4.8.97, the ACP on behalf of Deputy Commissioner of Police had informed the applicant that his request for compassionate appointment is considered but it is regretted that the same could not be acceded to. So the applicant states that this order passed by the respondents is not a speaking order and it does not give any reason as to why the request of the applicant has not been acceded to.

mu

6. The applicant further submits that the respondents are supposed to give a reasoned and speaking order so that he could have challenged the same effectively and draws the attention of the court to the judgment relied upon by him which is reported in 1978 (1) SCC 405 - Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, wherein it was observed as follows:-

8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji.

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actions and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older".

7. As regards the point raised by the learned counsel for the applicant that the respondents are supposed to give a speaking order, in reply to this, the learned counsel for the respondents submitted that the applicant is not in indigent circumstances and the family is a joint family and two brothers of the applicant are well employed and they have sufficient agricultural property and as such, they have sufficient means to earn their livelihood and as such, the applicant is not entitled for compassionate appointment.

11

8. However, to my mind, if we analyse the impugned order in the light of the judgment cited by the learned counsel for the applicant, I find that the order cannot stand as in the impugned order no reasons have been assigned as to why the request of the applicant has not been been acceded to. The pleas taken up in the counter-affidavit do not find mention at all in the impugned order. As observed by the Hon'ble Supreme Court, as above, I find that the subsequent plea taken by the respondents cannot validate an order which is otherwise invalid because of a non-speaking nature and the plea taken by the respondents to support the order of rejection of the application of the applicant can be stated to be an afterthought plea. As such, I find that the impugned order cannot stand and the same is liable to be quashed.

9. Accordingly, I hereby quash the impugned order and direct the respondents to pass a speaking order on the application of the applicant in accordance with the rules and instructions on the subject within a period of 2 months from the date of receipt of a copy of this order. No costs.

  
(Kuldip Singh)  
Member (J)

Rakesh