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Central Administrative Tribunal
Principal Bench

O.A. 1593/98

New Delhi this the 21st day of February, 2000

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

In the matter of:

1. Smt. Kusum Devi,
wife of late Kanch Pal Singh Rana,
(743/D III Bn),
R/o 56-F, Police Colony, Model Town-II,
Delhi-110 009.
2. Shri Ravinder Kumar,
S/o late Shri Kanch Pal Singh Rana,
(743/D III Bn),
R/o 56-F, Police Colony, Model Town-II,
Delhi-110 009. Applicants.

By Advocate Shri Adarsh Saini proxy for Shri R.P. Aggarwal.

Versus

1. The Lieutenant Governor,
through
The Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054.
2. The Commissioner of Police,
Police Headquarters,
M.S. Building, I.P. Estate,
New Delhi-110 002. Respondents.

By Advocate Shri Anil Singal proxy for Shri Harvir Singh.

O R D E R (ORAL)

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

Applicant 1 is the widow and Applicant 2 is a son of late Shri Kanch Pal Singh Rana, who died while in service on 3.9.1996 as Sub-Inspector (SI) in Delhi Police. The applicants have challenged the validity of the letter dated 24.9.1997 issued by the respondents rejecting their application dated 25.9.1996 for appointment of applicant 2 on compassionate grounds as Constable in Delhi Police.

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2. The deceased employee, late Shri Kanch Pal Singh Rana, SI, had left behind the family consisting of his wife and three sons at the time of his death. At that time, applicant 2 was 23 years of age and the other 2 sons were minors. Shri Saini, learned proxy counsel for the applicants, has submitted that soon after the death of the SI, the applicants had submitted an application to the respondents to consider appointment of Applicant 2 on compassionate grounds as Constable. He submits that a recommendation had been sent by the Addl. Commissioner of Police (A.P.), Delhi (Annexure A-6) recommending the case. Learned counsel has submitted that the family is in a very bad position financially after the death of the deceased employee. He has submitted that it is also to be borne in mind that Shri Kanch Pal Singh Rana had died as a result of cancer and the family had spent a lot of money on his treatment over and above what had been provided by the Government under the Rules. Learned counsel also submits that the family was in heavy debt and these were the reasons why the respondents ought not to have rejected the application made by the applicants for compassionate appointment of applicant 2. Learned counsel has further submitted that in certain other cases more especially mentioned in the rejoinder, for example, one Shri Ashish Kumar Tyagi, had been appointed on compassionate grounds as SI on the death of his father Shri Braham Deo Tyagi, who had also sufficient financial support but the respondents had still considered him fit for giving compassionate appointment which has not been done in the case of applicant 2. He has, however, not been able to state clearly what exactly the amount was paid to the family of Shri Braham Deo Tyagi on his passing away. He has also drawn my attention to certain other

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facts that applicant 1 is also suffering from cancer on account of which huge expenses have been incurred by the family along with the medical bills and certificates. Learned counsel has, therefore, submitted that the impugned rejection letter dated 24.9.1997 may be quashed and set aside and appropriate directions may be issued to the respondents to consider applicant 2 for compassionate appointment in a suitable post commensurate with his educational qualification, that is Graduation, and also keeping in view these additional facts.

3. I have seen the reply filed by the respondents and heard Shri Anil Singal, learned proxy counsel.

4. According to the respondents, the case of applicant 2 was processed/considered by the Committee headed by the Commissioner of Police, Delhi in a meeting held on 15.4.1997 for the post of Constable (Executive), Delhi Police under the relevant rules and instructions. However, after taking into account the financial condition of the deceased family, liabilities and all other relevant factors, including the size of the family, age of the deceased at the time of the death, ages of the children and the essential needs of the family, the Committee had rejected the request of applicant 2 for compassionate appointment. They have also mentioned that the wife of the late SI had been paid Rs.2,18,836/- as pensionary benefits and is drawing family pension @ Rs.2732/- p.m plus D.A admissible from time to time under the Rules. They have also mentioned that they are aware that the applicants' family do not have any agricultural land, etc. but they have stated that the family of the deceased has not stated about any property or address of their native place.

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On a further application made by applicant 1, it appears that the respondents had also re-considered the request for compassionate appointment of applicant 2 as Constable, but even on reconsideration the Committee which met on 3.11.1997 had not approved the same, taking into account the aforesaid facts and circumstances. Accordingly, applicant 1 had been informed by their letter dated 11.11.1997 (Annexure 'C'). For the 3rd time, on submission of another application by applicant 1 on 3.4.1998, the case of applicant 2 had again been re-considered by the Committee on 2.7.1998 but was again not approved. Shri Anil Singal, learned proxy counsel for the respondents has, therefore, submitted that in the circumstances of the case, the application may be dismissed. He has relied on the judgement of the Hon'ble Supreme Court in **Unesh Kumar Nagpal Vs. State of Haryana & Ors.** (JT 1994(3) SC 525).

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

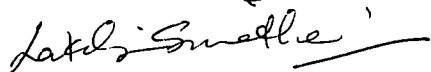
6. One of the contentions of Shri Saini, learned proxy counsel was that the impugned Annexure A-1 order has been passed without giving any reasons. Prima facie, it appears to be correct, but taking into account the reasons given by the respondents in the counter reply, I am unable to agree with the learned counsel for the applicants that on this account the impugned order should be quashed and set aside with a direction to the respondents to offer the appointment to applicant 2 on compassionate grounds. ~~However~~, It is further noticed that the respondents have not only once but three times reconsidered the claim of the applicants for granting compassionate appointment to applicant 2 as per the

relevant rules and instructions, but the Committees constituted for this purpose have come to the conclusion that this cannot be done in the facts and circumstances of the case. Taking into account the financial amounts paid to the family by way of pensionary benefits, including family pension, and the decision of the Supreme Court in **Umesh Kumar Nagpal's case** (supra), the decision of the respondents cannot also be faulted. It is settled law that compassionate appointment is given to wards of the deceased Government employee to help them to tide over the financial stress faced by the family on the sudden demise of the bread winner. In this case, the father of applicant 2 had died on 3.9.1996 and the respondents have repeatedly considered and reconsidered the claim of the applicants for compassionate appointment. It is noticed that it is only in the rejoinder, that the applicant has brought out the case of one Shri Ashish Kumar Tyagi, who had been appointed on compassionate grounds as SI on the death of his father, Shri B.D. Tyagi, and also the fact that applicant 1 is also now suffering from cancer for which certain medical certificates have been enclosed. The learned counsel for the applicants has submitted at the bar that it was only after filing of this O.A. on 19.8.1998 that the applicants became aware of the fact that applicant 1 is now a patient of cancer. Learned counsel for the applicants has also submitted at the bar that with regard to the facts noted by the respondents in their reply as mentioned above, the family of the deceased employee do not own any property and agricultural land, etc. at the native place. Learned counsel has, therefore, prayed that the respondents may be directed to reconsider the case of applicant 2 for compassionate appointment taking into account these additional facts. Learned counsel for the applicants submits that if a direction is issued to the respondents to

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re-consider the case of applicant 2 for compassionate appointment, the applicants would abide by the orders passed by the respondents as this will be the 4th time when the respondents will reconsider his case.

9. In the peculiar facts and circumstances of the case, particularly having regard to the fact that the deceased wife is also now suffering from cancer after this O.A has been filed and the fact that the family of deceased do not have any property or agricultural land at the native place, this application is disposed of with a direction to the respondents to have the case of applicant 2 re-considered for appointment as Constable on compassionate grounds, taking into account these additional facts, within two months from the date of receipt of a copy of this order. The respondents shall pass a reasoned and speaking order in case they are not again approving the request of the applicants for appointment of applicant 2 on compassionate grounds with intimation to the applicants. This case will not be quoted as a precedent. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

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