

Central Administrative Tribunal
Principal Bench

O.A. 2406/98

New Delhi this the 11th day of January, 2000

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

Sudesh Kumar,
S/o Late Shri Nafe Singh,
(SI Delhi Police No. D/742),
R/o Village Nathupur,
Tehsil & Distt. Sonepat (Haryana). Applicant.

By Advocate Shri Deepak Bhardwaj.

Vensus

1. Union of India through Commissioner
of Police, I.P. Estate,
New Delhi.
2. Addl. Commissioner of Police, HQ. (P),
PHQ, I.P. Estate,
New Delhi. Respondents.

ASI Randhir Singh, Deptt. Representative.

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 15.7.1998 rejecting ~~the~~ request made by the mother, wife of the late SI Nafe Singh for compassionate appointment on the death of his father on 25.10.1997.

2. The relevant facts of the case are that the father of the applicant expired while in service as Sub-Inspector with the Delhi Police on 25.10.1997 in an accident. The applicant is one of the four children of the deceased. According to the applicant, his elder brother, who is married has separated from the rest of the family, that is mother and himself and lives in a

different house and does not support the mother. He has submitted that he has studied upto 8th class and belongs to the Scheduled Caste community and he has no agricultural land or any other source of income. He has also submitted that he is himself married and has a wife and children to support. He has also submitted that his mother often remains sick and has to be looked after. In the circumstances, the applicant had made a request to Respondent 1 on 24.11.1997 for considering his case for compassionate appointment which has been rejected by them by the impugned order dated 15.7.1998.

3. Shri Deepak Bhardwaj, learned counsel for the applicant, has very strenuously submitted that in the aforesaid circumstances, there is no reason at all that the respondents should not appoint the applicant on compassionate grounds as, according to him, he fulfils ^{the 18} all ₁ necessary conditions. In particular, he states that the applicant is ^{an 18} unemployed young man of 27 years who not only has a mother but also a wife and minor children to look after. Besides, he has submitted that as the applicant has two married sisters, in accordance with the Hindu Customs he has also to take care of various ceremonies as his elder brother is not taking care of the same. He has also submitted that the applicant is in utmost need of the job as Class-IV employee in the Delhi Police, as there is no other earning member and his financial condition is very bad after the death of his father. Learned counsel for the applicant has also submitted that the impugned order dated 15.7.1998 is a non-speaking order and has been issued by the respondents ¹⁹

-3-

in a routine manner without taking into account the particular facts and circumstances of the applicant's case, as mentioned above. He has also submitted that the respondents cannot take into account the pensionary benefits paid to the applicant's mother or the family pension being paid to her or the fact that they have a small house in their native place at Village Nathupur, District Sonepat. He has submitted that ~~the~~ inflated value of the house has been placed by ~~the~~ ^B respondents which again is bad. In the circumstances, his contention is that as the applicant is unable to meet the financial demands of the family which consists of a mother, wife and minor children, a direction should be given to the respondents to appoint him in a Class-IV post on compassionate grounds and to set aside the impugned order dated 15.7.1998. He has also relied on the judgement of the Tribunal in **Ashok Kumar Vs. Commissioner of Police & Ors.** (OA 562/99) decided on 1.11.1997 (copy placed on record).

4. As no counsel had appeared on behalf of the respondents, I have perused the counter reply filed by them. In the reply, the respondents have submitted, inter alia, that the family of the late Sub-Inspector consists of the widow, two married sons, including the applicant and two married daughters. According to them, the elder son is already employed and serving in Delhi Police as Constable while the applicant is doing private job and getting Rs.1000/- per month. ^B They have also submitted that the widow, that is, the applicant's mother was paid more than Rs.5/- lacs as pensionary benefits and she is drawing family pension @ Rs.3,275/- p.m. plus DA

admissible from time to time. Having regard to the fact that The family possess ~~the~~ ^{are} house at their native village Nathupur, They have also submitted that the applicant was more than 26 years of age at the time of submitting his request for compassionate appointment and is 8th class fail and as per the Government instructions, persons could be appointed on compassionate grounds if they are eligible and suitable to the post in all respects under the relevant rules. They have, therefore, contended that the applicant was not eligible for the post of Constable as well as ^{other} Class IV post in Delhi Police. However, they have further stated that the applicant's case was considered by the Committee headed by the Commissioner of Police held on 2.7.1998 and taking into account the relevant rules and instructions as well as the judgement of the Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana & Ors. (JT 1994(3) SC 525), they ~~came~~ ^{came} to the conclusion that the applicant was not entitled for the same. They have taken into account the financial conditions of the deceased's family, its liabilities and all other relevant factors, such as monthly income, size of the family, earning members, ages of the deceased at the time of his death, ages of the children and the essential needs of the family, eligibility conditions, etc. before issuing the impugned order. They have also referred to another relevant judgement of the Supreme Court in LIC India Vs. Mrs. Asha Ramachandra Ambedkar & Anr. (JT 1994(2) SC 183). In the circumstances, they have submitted that the Committee headed by the Commissioner of Police, Delhi had considered the request of the applicant as well as his

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-5-

mother; and taking into account the relevant factors and the law, rules and instructions on the subject, they have rejected the same by a detailed order on 15.7.1998.

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

6. On perusal of the impugned order and the other details of financial status of the applicant's family, including ^{the} pensionary benefits given to the applicant's mother and other relevant factors, I am unable to agree with the contentions of the learned counsel for the applicant that either the impugned order has been passed without application of mind or application of the relevant rules and instructions on the subject or that it is arbitrary or unreasonable to warrant any judicial interference in this matter. The reliance placed by the respondents on the judgements of the Hon'ble Supreme Court in Umesh Kumar Nagpal and Mrs. Asha Ramachandra Ambedkar's cases (supra) is unexceptionable. The Hon'ble Supreme Court has laid down the criteria to be adopted by the department while dealing with such cases of compassionate appointment. The respondents have stated that the applicant's elder brother is already employed as a Constable in Delhi Police and it is also noticed that the mother is entitled to family pension in accordance with the rules. In addition, the family has also received more than Rs.5.5 lacs as pensionary benefits. I am unable to agree with the contention of Shri Deepak Bhardwaj, learned counsel, that the respondents were wrong to take into account

these amounts while dealing with the request of the applicant for compassionate appointment. The Supreme Court in **Umesh Nagpal's case (supra)** has held that "A job on compassionate ground cannot be offered as a matter of course irrespective of financial condition and mere death of an employee in harness does not entitle his dependents to a job". The position was further clarified by the Hon'ble Supreme Court by stating that the exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him, and to help the family to get over the financial crises which it faces at the time of the death of the sole bread-winner. I find that the judgement of the Tribunal in **Ashok Kumar Vs. Commissioner of Police & Ors.** (OA 562/99) relied upon by the learned counsel for the applicant will also not assist him because the facts and circumstances in that case are distinguishable. In the present case, the impugned order does indeed give the reasons that the competent authority, that is the Committee headed by the Commissioner of Police, Delhi who has looked into the request of the applicant for compassionate appointment has taken a decision to reject his case which is based on sound and good reasons. It is needless to say that the decision in each case will depend upon the facts and circumstances and in the present case it cannot be stated that the impugned order dated 15.7.1998 is either arbitrary, unreasonable or

8

against the rules and instructions to justify setting it aside.

7. In the result, for the reasons given above, the O.A. fails and is dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'