

Central Administrative Tribunal
Principal Bench
New Delhi

(3)

O.A. No. 339/98

Decided on 5.4.99

Shri Manoj Kumar & Anr. Applicants
(By Advocate: Mrs. B. Sunita Rao)

Versus

Dy. Commissioner of Police, Respondents
Delhi & Others
(By Advocate: Shri Arun Bhardwaj

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying
benches of the Tribunal or not ? No.

Adige
(S.R. Adige)
Vice Chairman (A)

Central Administrative Tribunal
Principal Bench

O.A. No. 339 of 1998

New Delhi, dated this the 5th day of April, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)

(A)

S/Shri

1. Manoj Kumar,
S/o Shri Bishambar Singh,
R/o Vill. & P.O. Khandeha,
Dist. Aligarh, U.P.
2. Bishambar Singh,
f/o Ex. Const. Mukesh Kumar No. 1456/NW,
R/o Vill. & P.O. Khandeha,
Dist. Aligarh,
U.P. Applicants

(By Advocate: Mrs. B. Sunita Rao)

Versus

1. Union of India through
Dy. Commissioner of Police,
North West District,
Delhi Police, Delhi.
2. Dy. Commissioner of Police,
Police Headquarters,
Delhi Police, Delhi.
3. Commissioner of Police,
Police Headquarters,
Delhi Police, Delhi. Respondents

(By Advocate: Shri Arun Bhardwaj)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicants impugn respondents' memo dated 17.2.97 (Ann. IV) rejecting the claim of applicant No.1 for compassionate appointment.

2. The brother of applicant No.1 who was a constable in Delhi Police died in harness on 5.5.91, leaving behind his father (applicant No.2) mother, sister and brother (applicant No.1). Applicant No.2 submitted an application on 28.5.91 for compassionate appointment of applicant No.1 who

✓

at that time was 16 years old and studying in IX class. The request was considered, but could not be acceded to, and the family was advised vide letter dated 2.7.91 to apply when applicant No.1 reached the age of 18 years. Applicant No.1 attained the age of 18 years on 15.7.95. Applicant No.2 submitted an application on 21.8.96 for compassionate appointment of applicant No.1 which has been rejected by impugned order dated 17.2.97, against which this O.A. has been filed.

4. I have heard applicants' counsel Mrs. Rao and respondents' counsel Shri Bhardwaj.

4. Respondents emphasise^d that applicant No.1 has no vested right to claim compassionate appointment. The whole objection of granting compassionate appointment to a member of the deceased employee's family is to enable them to tide over the sudden financial crisis, and compassionate appointment cannot be claimed and granted whatever the lapse of time, after the crisis is over. In the present case it is asserted that applicant No.1's brother died in 1991 while compassionate appointment is being claimed now, long after the crisis has passed, which shows that the family had the resources to tide over this period. Reliance in this connection is placed on the Hon'ble Supreme Court's judgment in V.K. Nagpal vs. State of Haryana & Ors. JT 1994 (3) SC 525. It is also contended that applicant No.1 being the brother of the deceased employee is not entitled to

compassionate appointment and reliance is placed on the Hon'ble Supreme Court's judgment dated 4.12.95 in State of Haryana Vs. Dhan Singh C.A. No. 12172/95 arising out of SLP (C) no. 7783/95. Further more it is contended that applicant did not possess the prescribed height and chest measurement as laid down in the Recruitment Rules for recruitment as a constable, and fourthly the family was paid Rs. 1,71,622/- as DCRG besides it possesses a one roomed house and one acre of agricultural land in Aligarh Dist. (U.P.).

(b)

5. Hon'ble Supreme Court's ruling in Dhan Singh's case (Supra) was with specific reference to the provisions of Rule 6.16-B(a) Punjab Civil Services Rules, where brothers below the age of 18 years were included as dependents which implied that the moment he crossed 18 years and became a major and ~~sought~~ employment, he ceased to be a dependent member of the deceased Govt. employee's family. Unless there is an identical rule covering employee's in the Delhi police the aforesaid judgment in Dhan Singh's case (Supra) may not be strictly applicable in the present case.

6. It is true that applicant's brother expired in 1991 and the family has somehow eked out a livelihood between then and now, but respondents themselves advised the family on 2.7.91 to apply when applicant No.1 reached 18 years of age, ~~but~~ ^{and} when after attaining the age of 18 years,

✓

applicant's father did apply, respondents have turned down the prayer on the ground that the crisis period had passed. To what extent such a stand is fair and equitable, is for respondents themselves to judge. (A)

7. As regards applicant No.1 possessing the necessary height and chest measurements for appointment as a constable, respondents are not restricted to consider applicant's case for compassionate appointment as a constable alone. It is open to them to consider his case for appointment in any suitable capacity which may not be confined to a post where height and chest measurements have to be rigidly enforced.

8. Keeping the above in view, this O.A. is disposed of with a direction to respondents to reexamine applicant No.1's prayer for compassionate appointment by a detailed, speaking and reasoned order in accordance with rules, instructions and judicial pronouncements under intimation to him within four months from the date of receipt of a copy of this order. No costs.

Adige
(S.R. Adige)
Vice Chairman (A)

/GK/