

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.692/98

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New Delhi this the 28th Day of August 1998

Hon'ble Mr. R.K. Ahooja, Member (A)

1. Smt. Byaso Devi,
W/o Late Shri Sukkham No. 2549/SD
R/o Qtr. No. 83-B, Police Colony,
Sector 12, R.K. Puram,
New Delhi.

2. Ms. Neelam,
D/o Late Shri Sukkham No. 2549/SD,
Qtr. No. 83-B, Police Colony,
Sector 12, R.K. Puram,
New Delhi.

Applicants

(By Advocate: Shri Jog Singh)

-Versus-

1. Union of India,
through
Commissioner of Police,
Police Headquarters,
M.S.o Building, I.P. Estate,
New Delhi.

2. Additional Commissioner of Police,
Police Headquarters,
for Dy. Commissioner of Police,
South West Distt.,
PHQ III, ITO,
New Delhi.

3. Deputy Commissioner of Police,
South-West Distt.,
PHQ-III, I.T.O.,
New Delhi.

Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER

The Applicant No. 1 is the widow and Applicant No. 2 is the daughter of Late Shri Sukkham, ASI, in Delhi Police who died in harness on 21.1.1994 leaving behind his widow and four minor school going children. Applicant No. 1 sought an appointment on compassionate

ground but was informed that since there was no post of Daftry available in Delhi Police, if she was agreeable, Respondents could consider her for the post of a cook. On her consent being given, her case was considered by the Committee under the Chairmanship of Commissioner of Police, Delhi but was not approved. Her second representation and a second consideration by the same Committee yielded the same result. Thereafter, an application was made by the Applicant No. 2, on attaining the qualifying age, for appointment as a Woman Constable on compassionate ground but on the case being considered by the Committee, the application was turned down. In the meantime the respondents also initiated action for eviction of the applicants from the Government quarter allotted to the late ASI. It is aggrieved by the action of the respondents in refusing the compassionate appointment to the applicants and in initiating eviction proceedings that they have approached the Tribunal now with the prayer that respondents be directed to appoint either of the applicants as Class II or Class III employee and further that the impugned order dated 9.3.1998 seeking eviction of the applicants from the Government quarter be quashed.

2. The respondents in their reply have stated that the case of the applicants was considered by the competent authority viz., the Committee constituted under the Chairmanship of the Commissioner of Police and after considering the circumstances of the family in terms of the Judgement of the Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana and others, 1994 (2) SLR 677, was

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rejected. They also point out that the widow, Applicant No. 1 received monetary benefits amounting to Rs. 1.76 lakhs as also family pension and has also one acre of land at their ancestral place in Himachal Pradesh. The respondents say that there are more deserving cases for compassionate appointment who have to be given preference keeping in view the fact that not more than 5% of the jobs can be reserved for compassionate appointment. (11)

3. I have heard the counsel on both sides and have also perused the departmental file relating to compassionate appointment of the Applicants No. 1 & 2. I find that the case of the applicants has been considered by the Committee not once but three times. The proceedings of the Committee have been presided over by two different Commissioners of Police but with similar results. I also find that a very large number of cases have been considered and the Committee has been obliged to reject a very large percentage thereof. Since the respondents are constrained by the fact that they cannot make use of more than 5 per cent of the vacancies for compassionate appointment, they have to examine the relative merits of the persons in the queue. The Committee has after weighing the relative merits of the each case come to the conclusion that the case of the applicants is less deserving. The monetary compensation, granted, the pension and the fact that the family also owns a piece of land also have been taken into consideration. Consequently, it cannot be said that the case of the applicant has not received due and proper consideration not once but three times. I also find that

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very large number of cases have been considered and the Committee have been obliged to reject a very large percentage thereof. (12)

4. The Hon'ble Supreme Court in Umesh Kumar Nagpal (Supra) has deprecated the practice of providing compassionate employment either as a matter of course or for posts above Classes III and IV. It was pointed out by the Hon'ble Supreme Court that one such exception to the general rule of making appointment on the basis of open invitation to applicants on merits would be in favour of the dependents of an employee who died in harness leaving his family in penury and without any means of livelihood. The Government has to examine the financial conditions of the deceased and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.

5. In the present case due consideration has been given to the case of applicants. Four years have passed since the demise of the Government servant. The family cannot be considered to be totally devoid of the financial resources. In these circumstances it is not possible to interfere with the findings of the Committee regarding the relative merit and justification of the case of the applicants.

6. In view of this position, no interference or direction in respect of the compassionate appointment is called for. No relief similarly can be given to the applicants in respect of the retention of the Government

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accommodation after four years of the death of the original allottee. Consequently while dismissing the OA, it is made clear that the interim order against the proposed action of eviction will also stand vacated.

R. K. Ahuja
(R. K. Ahuja)
Member (A)

Mittal