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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2613/97
MA No. 2615/97

New Delhi this the 22nd Day of April 1998

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

1. Smt. Ram Rati Devi,
Widow of late Shri Subhash Chand.
 2. Shri Rajesh Kumar
S/o late Shri Subhash Chand
Both Resident of Village Samaspur Khalsa,
PO Ujhwa, New Delhi-110 073
and another
- Petitioners

(By Advocate: Shri Sama Singh)

-Versus-

1. Commissioner of Police,
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
2. Deputy Commissioner of Police (HQ1)
Police Headquarters, MSO Building,
I.P. Estate, New Delhi-110 002. Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

The Applicant No. 1 is the widow and Applicant No. 2, the son of late Shri Suhash Chand, Head Constable in Delhi Police who died on 26.2.1996 while in harness. On his death, representation was made to the Commissioner of Police for the employment of Applicant No. 2 as Constable in Delhi Police on compassionate ground. Aggrieved by the order rejecting this representation, the applicants have filed this OA seeking a direction to the respondents to give appointment to Applicant No. 2 at the earliest.

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2. The case of the applicants is that the deceased Govt. employee left behind six daughters and two sons, of which Applicant No. 2 is the elder one. Five of the daughters as well as Applicant No. 2 are married while one daughter and one son, being students are still unmarried. The Applicant No. 2 is said to be unemployed though he has a daughter of his own. The applicant says that the retirement-cum-death benefits given to the family were meagre and inadequate, there being a paltry family pension of Rs. 665/- while a sum of Rs. 2,26,396/- was given by way of Insurance Scheme, Gratuity and Leave Encashment etc.

3. The respondents in the reply have stated that the case of the Applicant No. 2 was duly considered for appointment as Constable (Executive) in Delhi Police by a Committee headed by the Commissioner of Police, Delhi but it was not found to be a fit case for such an appointment. They state that apart from family pension of Rs. 665/- plus DA and Interim relief and terminal benefits already mentioned above, the family was found to have a residential house in a 500 sq. yards plot and also 2 acres of agricultural land worth more than Rs. 10 lakhs. They have also cited a number of judgements of the Apex Court to show that compassionate appointment is to be granted only in extreme case in order to save the family from destitution and the crisis arising out of the death of the only bread earner of the family.

4. I have heard the counsel on both sides. The learned counsel for the applicant has argued that the decision of the Hon'ble Supreme Court relied upon by the respondents are based on entirely different facts and

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circumstances and are not applicable to the present case. He also argues that the family does not have any house of their own and even if they have any land, the native village of the family is in a far off and infertile area where the land prices are minimal and certainly not in the range mentioned by the respondents. He also submitted that the widow and the Applicant No. 2 have incurred debts on the marriage of the daughters and they have even now to discharge social obligations in respect of the married daughters apart from spending money on the education of the youngest son and daughter. He also pointed out that the pension is of a meagre sum which may be regarded as sufficient for the up keep of a family.

5. I have considered the matter carefully. As pointed out by the learned counsel for the applicant, the request for compassionate appointment was made immediately after the death of the head of the family. Nevertheless, there are two reasons on account of which I consider that no interference is called for. Firstly, the applicant No. 2 is admittedly himself married with a child of own. I am unable to agree with the learned counsel for the applicant that in the custom of the village marriage of a son does not imply that he is gainfully employed. The son left his study way back in 1992. It cannot thus be said that he would be entirely dependent on the father for his as well as his family upkeep. The second reason against interference that in a Judicial review unless it is found that the decision of the applications is based on no ground whatsoever or if it is found that the same is made contrary to any rule or instructions of the Government or is the outcome of a

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malafide action. In the present case there is as the respondents state a family pension for the widow and terminal benefits to the tune of Rs.2,26,396/-, were granted to her. There is an allegation that there is a residential house and 2 acres of land. The applicant have not in clear cut terms denied the second allegation. It cannot, therefore, be said that the decision of the respondent is without any foundation. For these reasons, I do not think that this Tribunal can substitute its judgement in place of those of the respondents more so when such a decision has been taken after due consideration by a Committee duly constituted for this purpose and headed by the Commissioner of Police.

In the light of the above discussion, the OA is dismissed. There will be no order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

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