

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2803/97

New Delhi this the ~~5th~~ Day of June 1998

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

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Shri V.P. Gautam,
S/o Late Shri S.P. Gautam,
R/o 4/2344 Gali No. 7,
Behari Colony,
Delhi-110 032.

(By Advocate: Shri B.L. Babbar)

-Versus-

1. Union of India (through)
The Secretary,
Department of Defence Production
and Supplies, Ministry of Defence,
South Block,
New Delhi-110 011.
2. The Director General,
Quality Assurance Organisation,
Dept. of Def. Prod. & Supplies,
South Block,
New Delhi - 110 011
3. The Senior Quality Assurance Officer
Sr. Quality Assurance
Estt. (Stores), Anand Parbat,
New Delhi-110 005. Respondents

(By Advocate: Shri VSR Krishna)

ORDER

The father of the applicant who was in service of Respondent No. 2 as a Junior Scientific Officer expired on 23.11.1997 leaving behind his widow, 2 sons including the applicant and one unmarried daughter. The widow applied to Respondent No. 3 for appointment of the applicant to a Group 'C' post on a compassionate basis. An intimation was sent to her on 7.1.1992 that the name of the applicant had been kept on the waiting list for consideration as and when vacancies become available. However by letter dated 30.11.1993 she was informed that the competent authority had not agreed to

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give employment to the applicant on compassionate ground. Subsequent representations however resulted in re-consideration of the case of the applicant and an offer of a Group 'D' post of a Messenger was given by letter dated 2.8.1995. The applicant says that he accepted the post under protest as the family was facing acute financial crisis. Accordingly, he made a representation dated 13.9.1996 Annexure P-7 giving details of the vacancies of LDCs but this representation was turned down by a letter dated 7.1.1997 Annexure P-7. It is aggrieved by this decision that the applicant has come before the Tribunal.

2. The case of the applicant, in brief, is that initially when his mother made a request for his appointment on compassionate grounds, the respondents had given a commitment that he would be considered for a Group 'C' post when vacancies become available. The applicant says that not only vacancies had become available but the respondents also made appointments to those posts on compassionate ground. The applicant also cites the cases of other persons, wards of employees who died in harness, who were lower down in the waiting list but were still considered for appointment as LDCs, a Group 'C' post, on compassionate basis. The applicant says that he was subjected to hostile discrimination in as much as he was given only a Grade 'D' post while the respondents continue to make appointment of similarly situated persons to Grade 'C'

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post. It is also urged, on behalf of the applicant, that once the respondents have accepted the need for providing help to the family of the deceased employee by offering employment on compassionate ground then they are duty bound to give such an employment as is accord with his qualifications and also in keeping with treatment given to other similarly situated persons.

3. The respondents in their reply have stated that there was no commitment to offer a grade 'C' post to the applicant at any stage. They had replied when a request was made by the mother of the applicant for the appointment of the applicant on compassionate ground, that his case would be considered on merits at the time when vacancies become available. They also say that after considering the circumstances of the family, a decision was taken in 1993 that relaxation of the rules for appointment on compassionate ground was not warranted in the case of the applicant and that this decision was duly communicated to the applicant's mother. It was only later when certain Group 'D' post became available that in consultation with the employees side in the JCM, it was decided to reconsider the old cases and as a result 11 persons were offered Group 'D' post; one of those 11 cases was that of the applicant. The respondents say that the applicant accepted the Group 'D' post in 1995. There is no provision according to the respondents in the rules for upgrading or changing his appointment from Group 'C' to Group 'D'.

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4. I have heard the counsel on both sides at the admission stage and with their consent the OA is being finally disposed of. Shri B.L. Babber, the learned counsel for the applicant has cited a Judgement of the Punjab and Haryana High Court in CWP No. 8933 of 1993 Rajiv Kumar Sharma v. State of Haryana and another wherein it was held that the State cannot adopt the policy of 'Pick and Choose' while making appointment on compassionate ground and give as a result different treatment to similarly situated persons. He also relied on the decision of the Supreme Court in Sushma Gosain and others v. Union of India and others AIR 1988 Supreme Court 1976 in which it was held that there should not be any delay in appointment on compassionate ground; if there is no suitable post for appointment, supernumerary post should be created to accommodate such a person.

5. I have considered the matter carefully. While I agree with Shri Babbar, the counsel for the applicant, that the State cannot adopt a 'Pick and Choose' policy, nevertheless the circumstances of the present case are such that no fault can be attributed to the respondents. It is an admitted position that the respondents had finally rejected the case of the applicant as far back as in 1993. This was done because they had concluded that the widow of the deceased Government employee had received terminal benefits amounting to Rs. 2.87,000/- and had also been granted a family pension of Rs. 1200/- per month plus Dearness Allowance. When the Competent Authority had duly considered the circumstances of the family of the

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deceased employee on the request of the widow and rejected the same, there remains no case for judicial review. It is also an admitted position that the case of the applicant was reviewed on further representation and he was offered a Grade 'D' post which was accepted by him. The purpose of compassionate appointment is neither to restore the affected family to its old status nor to give employment commensurate with the qualifications of the dependent whose employment is being sought; the purpose is to mitigate the hardship of the family on the death of the sole bread earner. The death of the Government employee took place in 1991, the case for compassionate appointment was rejected in 1993 but on review a lower post was offered in 1995 and accepted. No case therefore can be made out in 1997 for its reconsideration and offering a higher post to the applicant. The learned counsel for the applicant would have the Tribunal go into the case of other appointees to find out whether the applicant has been discriminated against. I do not consider that the same is at all necessary. Keeping in view the fact that way back in 1993 the respondents had in fact rejected the case of the applicant altogether his appointment in 1995 itself would appear to be a matter of concession after four years of the death of his father. Furthermore, the applicant having accepted the Group 'D' post in 1995 cannot now seek to re-open the issue; there is a provision for initial appointment on compassionate ground but not for a change of post or promotion on that consideration.

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

~~Reckha -~~
(R.K. Alooja)
Member(A)

Mittal