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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2134/2000

New Delhi, this the 9th day of May, 2001

HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

Deepak Lal,
S/o Late Sh. Phool Ram,
R/o 478, Sector-I,
R.K. Puram,
New Delhi. ... Applicant
(By Advocate : Shri T.P.S. Rathore)

V E R S U S

1. Govt. of NCT, Delhi
through Secretary,
Service-II Deptt.,
5, Sham Nath Marg,
Delhi
2. Commissioner,
Food Supplies and Consumer Affairs,
Govt. of NCT Delhi,
K. Block, Vikas Bhawan,
New Delhi - 2.
3. Food and Supply Officer,
Deptt. of Food & Civil Supplies,
Sector 8, Circle-10,
R.K. Puram,
New Delhi ... Respondents
(By Advocate : Shri Vijay Pandita)

ORDER (ORAL)

By S.A.T. Rizvi, Member (A):

Heard the learned counsel at length and have also perused the material placed on record.

2. Shri Phool Singh, a Sweeper in the respondents set up expired on 11.9.1998 while still in active service, leaving behind his widow and two unmarried children. He had rendered 30 years of service already at the time of his death. The applicant seeks appointment in group 'D' post on compassionate basis, contending that the family of

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the deceased employee has been living in acute financial distress.

3. The learned counsel appearing on behalf of the respondent has disputed the claim of the applicant by referring to the provisions made in the Scheme for compassionate appointments issued by the DOP&T in 1998, and by relying on several judgements rendered by the Hon'ble Supreme Court in the matter of compassionate appointments. He has also drawn by attention to the proceedings of the Screening Committee which had considered the cases of a large number of persons for compassionate appointments and had, after consideration, rejected as many as 58 cases on various grounds. According to him, the aforesaid Screening Committee has rejected the claim of the applicant Shri Deepak Lal, the deceased employee's son, on the following two grounds:-

- i) The family is in receipt of monthly pension of Rs.1,705/- apart from the amount of Rs.2,59,692/- paid on account of the service benefits of the deceased Govt. servant.
- ii) Two brothers of the applicant are employed.

Accordingly, a formal rejection letter has been issued by the respondents vide Memorandum dated 2.8.2000 (Annexure A1).

4. After a perusal of the recommendations made by the aforesaid Screening Committee in a large number of cases, I find that a number of other cases

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have also been rejected by the Committee on grounds similar to the grounds taken in the present case relating to Deepak Lal. I also find that the aforesaid Screening Committee has gone into the matter properly and extremely carefully in each case considered by them. The following extract taken from the minutes of the aforesaid Committee will go to show that the matter was considered in each case by taking into account all the possible relevant factors such as ^{2 presence} ~~persons~~ of earning members, size of the families etc. etc.

"The Screening Committee did not recommend appointment in 58 cases after considering all relevant facts of the cases available on file and the contentions of the applicants put forth during the personal hearing. These cases were not rejected only for the reason that the family has received a considerable amount under various welfare schemes. Rather the Screening Committee did make a balanced and objective assessment of the financial condition of the family of the deceased Govt. servant, taking into account its assets and liabilities (including the benefits received under various welfare schemes) and all other relevant factors such as presence of an earning member, size of the family, ages of the children, and the essential needs of the family etc. Moreover, the observation of the Supreme Court in the judgement dated May 4, 1994 in the case of Umesh Kumar Nagpal Vs. State of Haryana and others (JT 1994 (3) SC 525) that appointment on compassionate grounds cannot be offered as a matter of course irrespective of the financial condition of the deceased Govt. servant, was also kept in view by the Screening Committee while considering these cases. The Apex Court has also observed that the only ground which can justify compassionate appointment is the penurious condition of the family of the deceased Govt. servant and it should be offered only as relief against destitution. Accordingly, the Screening Committee

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taking into account the above observations of the Apex Court did not recommend appointment in these cases as the financial condition of the families is not so precarious as to warrant appointments on compassionate grounds, more so in view of the average conditions prevailing in the society."

5. The aforesaid guide-lines of 1998 also provide for a very careful consideration of cases in which any member of the family of the deceased employee is already in employment. The relevant provision made therein is reproduced below:

"(b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family."

6. The learned counsel appearing on behalf of the respondents has also drawn my attention to Auditor General of India Vs. G. Ananta Rajeshwar Rao decided by the Supreme Court on 8th April, 1993 and reproduced in (1994) 1 SCC 192 and U.K. Nagpal Vs. State of Haryana decided by the Supreme Court on 4.5.1994 and reproduced in JT 1994 (3) SC 525. In the former case, the Supreme Court has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution, but if the Govt. servant who died in harness and whose dependants need immediate appointment on the grounds of

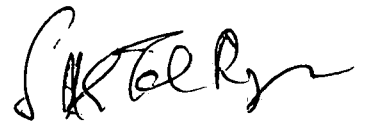
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immediate need of assistance in the event of there being no other earning member to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable. In the latter case, the Supreme Court has held that the only ground which would justify compassionate appointment is the penurious condition of the family of the deceased and such appointment should be offered only as relief against destitution.

7. After a careful consideration of the pleadings of the parties and the arguments advanced and having regard to the guide-lines issued by the DOP&T in 1998 and the ratio of the judgements rendered by the Hon'ble Supreme Court in the aforesaid cases, I find that the OA is devoid of force and would deserve to be rejected. The OA is accordingly dismissed. No costs.



(S.A.T. RIZVI)
MEMBER (A)

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