

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2317 of 2000

New Delhi, this the 1st day of August, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Smt. Saravti Devi W/o Late Shri Nanwa Singh
R/o Village Bhoura, P.O. VAir
P.S. Kakor District Gautam Budh
Nagar (U.P).

-APPLICANT

(By Advocate: Shri S.K. Gupta)

Versus

1. Commissioner of Police Delhi,
New Delhi.
2. Home Secretary,
The Government of NCT of Delhi,
New Delhi.

-RESPONDENTS

(By Advocate: Shri Harvir Singh)

O R D E R(ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This OA has been filed under Section 19 of the Administrative Tribunal's Act, 1985 by the widow of the deceased employee whereby she is seeking compassionate appointment for her younger son Bhupinder Kumar as Constable in Delhi Police.

2 The facts in brief are that applicant's that applicant's husband Late Shri Nanwa Singh was working as a Constable in Delhi Police and expired on 4.12.92 while on duty. Thereafter the applicant had made a representation to the respondents for appointment of his son Mukesh Kumar. The respondents recommended the case of Mukesh Kumar for appointment as constable in Delhi Police on compassionate grounds. However, when he was medically examined he was found to be unfit as he was found to have coloured blindness, so he could not be recruited as constable on compassionate grounds.

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3. Thereafter the applicant made another representation vide Annexure A-4 that if her son Mukesh Kumar is found unfit, then his younger son Bhupinder Kumar may be considered for appointment as a Constable on compassionate grounds. The applicant was called upon vide Annexure A-9 to submit various testimonials and photographs of Sh. Bhupinder Kumar. Then vide Annexure A-10, Deputy Commissioner of Police, New Delhi wrote to Superintendent of Police, Gautam Budh Vihar, U.P. and called for report on prescribed proforma regarding character and antecedents of Shri Bhupinder Kumar. Vide Annexure A-11 enquiries from local police was also made. Physical test of Bhupinder Kumar was also conducted and vide Annexure A-12 the Additional Dy. Commissioner of Police, New Delhi wrote a letter to the Additional Commissioner of Police, Establishment, Delhi, the extracts of which are extracted herein below:-

" However, in view of the family circumstances of the deceased Constable, the case for appointment of her son Sh. Bhupender Kumar S/o Late Ct. Nauna Singh, has been considered for the post of Constable (Exe.) in Delhi Police on compassionate grounds and recommended. The prescribed application form alongwith all other relevant information/documents are also enclosed."

4. The above extract show that the Additional Deputy Commissioner of Police, New Delhi had stated therein that the case of the applicant Sh. Bhupinder Kumar had been considered for the post of Constable but ultimately vide Annexure A-13 the department informed the applicant that her request for appointment of her son

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Bhupinder Kumar as Constable in Delhi Police on compassionate grounds has been considered recommended in the light of the Government of India's rules/instructions on the subject as well as in accordance with the judgment of the Hon'ble Supreme Court in the case of Shri Umesh Kumar Nagpal Vs. State of Haryana, and it is regretted that her request for appointment of her son cannot be acceded to. It was also stated that appointment on compassionate grounds is given only in the immediate need of assistance and it is not a vested right which can be exercised at any time in future.

5.. In the present OA the applicant has challenged this order and submitted that this judgment of Umesh Kumar Nagpal (Supra) does not apply to the facts of the present case because the applicant has still not come out of financial crisis and she is still in a pecury condition and is unable to survive as there is no regular source of livelihood for the family of the deceased employee of the respondents.

6.. The respondents who are contesting the OA have also filed their reply and pleaded that though the case of Shri Mukesh Kumar was considered and approved but due to colour blindness and his involvement in criminal cases, he was not found fit for Police services. Thereafter the applicant had not made any request for 3.1/2 years which clearly proves that the family had been able to manage somehow these years. Beside that after the death of her husband the applicant was paid Rs.1,22,95/- as pensionary benefits and more over she is drawing family pension at the rate of Rs.1764/- per month

[Signature]

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plus DA etc., so it is stated that the request for compassionate ground has been rightly rejected.

7. I have heard the learned counsel for the parties and given my thoughtful consideration to the matter.

8. As regards the plea of the respondents that the applicant has been able to manage the financial crisis and that her elder son was involved in criminal activities so the case of the applicant's son Shri Mukesh Kumar was rightly rejected.

9. I have considered these pleas of the respondents but on going through the impugned order I find that the case of the applicant has been rejected only on the ground of delay and by drawing a presumption that by this time the family must have managed the financial crisis but from the pleadings of the respondents it appears that no enquiry has been conducted whether the family has been able to manage the financial crisis or not, rather the pleadings suggest that the applicant had somehow been able to manage her financial crisis.

10. On the contrary, the counsel for the applicant submitted that since the applicant's son has not been provided any job by the respondents and the applicant is still not able to manage the financial crisis rather she is able to pass the time by doing menial job in the neighbourhood house and it is not a case where the applicant might have got some assistance from any quarter

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or has been able to come out of the financial crisis.

11. To my mind also, as far the financial position of the applicant is concerned, there is nothing on record to show that the same has ~~deteriorated~~ ^{improved}. The financial condition of the applicant remains the same or it has worsened from the time when the applicant's son Mukesh Kumar was approved for appointment as constable in Delhi Police by the Commissioner of Police and in case the financial condition remains the same or the same had been deteriorated then it is again worth consideration to give an appointment on compassionate grounds to second son if the earlier son could not be given the job because of medical unfitness. Moreover the recommendations of the Additional Commissioner of Police quoted above as extracted from his letter go to show that the family of deceased is still in ~~poor~~ ^{poor} condition and has not been able to manage financial crises.

12. As regards the retiral benefits are concerned, I may mention that it has been held by the by the Hon'ble Supreme Court in the case reported in reported in 2000 (4) Scale 670, Balbir Kaur & anr. vs. Steel Authority of India Ltd. & ors., relevant portion of which reads as under:

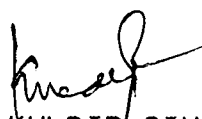
"Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family. This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events."

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13. It appears from the pleadings available on record that the respondents, while considering the case of applicant for compassionate appointment, had taken into consideration the terminal benefits given to the family of the deceased employee. However, as per the observations of the Hon'ble Supreme Court in the case of Balbir Kaur (supra), quoted above, the retiral benefits given to the family members of the deceased employee could not be equated with the benefit of compassionate appointment as the same had been given to them to comply with the mandate of statute, after the early death of the employee.

14. Under these circumstances, I am of the opinion that the impugned order rejecting the prayer of the applicant for appointment of Sh. Bhupinder Kumar on compassionate grounds cannot be sustained as the respondents while considering the case of applicant's son for compassionate appointment, had ^{also} taken into consideration the terminal benefits given to the family members of the deceased employee. The impugned order is, therefore, quashed and the O.A. is allowed to the extent that respondents shall consider the case of applicant's son Sh. Bhupinder Kumar for compassionate appointment within a period of three months from the date of receipt of a copy of this order, as per the instructions on the subject and in accordance with the observations of the Hon'ble Supreme Court in the case of Balbir Kaur vs. SAIL (supra). No costs.


(KULDIP SINGH)
MEMBER (JUDL)

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