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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. OA 709/89

Date of decision: 20.4.1990.

Shri Virender Singh Applicant

Vs.

Delhi Administration and ors..... Respondents

CORAM: HON'BLE MR. P. K. KARTHA, VICE CHAIRMAN
HON'BLE MR. D. K. CHAKRAVORTY, MEMBER

For the Applicant Shri K. C. Mittal,
Counsel.

For the Respondents Shri B. R. Prashar,
Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. D. K. Chakravorty, Member)

JUDGEMENT

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the impugned orders dated 12-10-1988 and 5-1-1989 as being arbitrary, illegal and violative of Articles 14 and 16 of the Constitution and prayed for setting aside the same. The applicant has sought for direction to appoint him as Lower Division Clerk on compassionate grounds.

2. As an interim relief, the applicant prayed for restraining the respondents from evicting the family from the Government quarter. An interim order for this relief passed on 7-4-1989 has been continued until further orders.

3. The brief facts of the case are as given below. The father of the applicant, Shri P. M. Malik, who was the Principal of the Government Boys' Senior Secondary School, Babarpur, Delhi died on 28th January,

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1988 after serving the respondents for more than 31 years with unblemished record of service. The deceased left behind a family of six members including his widow and the applicant. The applicant is the eldest son of the deceased and has no employment or any other source of income. The applicant's mother has also no **source of** income and is unemployed. Applicant's one brother, who is married has separated from the family and is living abroad and is not supporting the family in any way. Applicant's two other brothers are students.

According to the applicant, he is entitled to appointment on compassionate grounds after the death of his father in accordance with the Office Memorandum No.1408/6/86-Estt(D) dated 30-6-1987. Initially the applicant made a representation to the respondents on 6-2-1988 requesting for appointment as a T.G. Teacher on compassionate grounds. The mother of the applicant also made a request to the respondents vide letter annexed as Annexure-II to the application for appointment of the applicant on compassionate grounds. However, the respondents vide their letter dated 27-4-1988 stated that since the applicant does not fulfil the educational qualification required for the post of T.G. Teacher, the department cannot consider his request for that post. The applicant was, however, informed that his name could be considered for the post of Lower Division Clerk. Thereafter, as desired by the respondents in the letter dated 27-4-1988, the applicant submitted a declaration on non-judicial stamp paper.

Vide their letter dated 18-7-1988, the respondents sought further ^{/which was} information from the widow /duly furnished. One of the brothers of the applicant, namely, Shri. Rajesh

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Kumar Malik also sent a letter to the respondents to the effect that he is a student of M.D. and is unemployed and that he was in receipt of only stipend which is not sufficient to meet the demands of the family. The respondents vide their letter dated 12-10-1988 informed the applicant that his request for appointment has been considered by them but the same could not be acceded to. This is one of the orders which the applicant has called in question in this application. The applicant, through his mother, made an appeal to the Lt. Governor of Delhi alongwith which a copy of the statement of G.P.F. Account of the deceased official showing a minus balance of Rs.2028/-- was enclosed. The applicant's case was again rejected vide letter dated 5th January, 1989 which is the other order challenged by the applicant.

4. In the counter filed on behalf of the respondents, full details of the terminal benefits received by the widow of the deceased Government servant have been indicated. The widow has received Rs.93,000/- as Death-Cum-Retirement Gratuity, Rs.83,416/- on account of CGEIS and Rs.22,000/- towards leave encashment. This is besides Rs.50,000/- which was withdrawn from the G.P.F by the deceased employee just before his death. This explains the small minus balance in the G.P.F.Account. It is stated that the total amount received by the widow is not insignificant and, if deposited in any Nationalised Bank, it will secure an income of Rs.1,800/- per month. The widow is also in receipt of a family pension of Rs.1238 per month. The applicant, who is the eldest son of the deceased employee, is a young man of 32 years who had passed the B.Com examination in 1978. He is married and has a child. It appears unbelievable that he is

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sitting idle and doing nothing. The second son is living abroad with his family. The third son, who is a qualified doctor, is doing his M.D. as a Junior Resident in the Maulana Azad Medical College and is getting Rs.3063/- per month. He is living with the family and this is his last year of residency. The youngest son is a medical student.

5. The counter further states that according to the instructions of the Government, appointment on compassionate grounds may be considered for a son/daughter/near relative of a Government servant who dies in harness, leaving the family in immediate need of assistance when there is no other earning member in the family. Each case is decided on its own merits keeping in view the instructions of the Government of India . In this case, the respondents have come to the conclusion that there is not enough justification to appoint the applicant on compassionate grounds as the family could not be considered to be in distress.

6. We have heard Shri K.C. Mittal, the learned counsel for the applicant and Shri B.R. Prashar, the learned counsel for the respondents. We have also gone through the records of the case carefully.

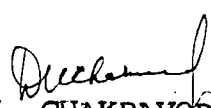
7. The father of the applicant died about two years before the date of his retirement. Shortly before his death, he had withdrawn a sum of Rs.50,000/- from his G.P.F. Besides the family pension of Rs.1238 per month, the widow has received substantial amount to the tune of Rs. 2 lakhs as DCRG, CGEIS and leave encashment. All the children of the deceased employee are grown up. The applicant, who is the eldest son, is a Commerce graduate, is married, has a child and was looking

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after his maternal uncle's agricultural holding for his livelihood. The second son is settled in the U.S.A where he is a lecturer in a University. The third son is a doctor in the final year of residency and M.D. degree. The youngest son is 24 years old and is studying for M.B.B.S. The widow does not have any daughter. The decision of the respondents that the family is not in distress and, therefore, the request of the applicant for appointment on compassionate grounds could not be acceded to, cannot be faulted. In the conspectus of the facts and circumstances of the case we do not find any justification for interfering with the decision taken by the respondents. The application is devoid of merit and is accordingly dismissed.

8. The interim order passed on 7-4-1989 will stand vacated on the expiry of 15 days from the communication of this order.

9. There will be no order as to costs.


(D.K. CHAKRAVORTY)
MEMBER

20th April, 1990


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(P. K. KARTHA)
VICE CHAIRMAN