



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.NO.060/00611/2020

Order pronounced on: 04.02.2021
(Order reserved on: 29.01.2021)

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

Pooja Kumari D/o Deep Raj R/o House No. E-15, New Power House
Colony, Industrial Area, Phase-I, Chandigarh-160002, Group C.

....

Applicant

(BY ADVOCATE: MR. JAGDEEP JASWAL)

VERSUS

1. Chandigarh Administration through Advisor, Sector-9,
Chandigarh-160009.
2. Chief Engineer, Engineering Department, U.T. Secretariat,
Sector-9, Chandigarh-160009.
3. Superintending Engineer, U.T. Secretariat, Sector-9,
Chandigarh-160009.

Respondents

(BY ADVOCATE: MR. VINAY GUPTA)



ORDER
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

1. The present Original Application has been filed by the applicant Pooja Kumari for a declaration that the seniority list communicated vide letter dated 18.8.2020 (Annexure A-1) and order dated 20.7.2020 (Annexure A-3) placing the name of the applicant at Sr. No. 102 therein as illegal and arbitrary. The applicant has further sought grant of compassionate appointment to her keeping in view penurious condition of family in terms of policy dated 16.1.2013 (Annexure A-2).

2. The father of the applicant Deep Raj was working as Assistant Lineman in Electricity Department of the Chandigarh Administration. He expired on 25.10.2017, while performing duty. He has left behind his widow and one unmarried daughter – who is the applicant in this O.A. The applicant applied for compassionate appointment in 2017 itself. Correspondence in this regard is annexed as Annexures A-5 to A-7. The applicant further made representations in 2019 and 2020 (Annexure A-8 and A-9). However, there was no response. The applicant served legal notice dated 7.7.2020 (Annexure A-10). Thereafter the claim of the applicant for compassionate appointment has been rejected vide impugned order. Hence the present O.A.

3. The case of the applicant is that her father expired in October 2017 while performing his duty. He left only his widow and single unmarried daughter with no male member to look after the family. The financial condition of the family is really



indigent and penurious. The family pension is largely spent on day-to-day expenses and also on the widow's medicines who is a heart patient and needs regular medical check up. The family is presently residing in government accommodation allotted to her father. However, they can retain the same only till October 2022 and thereafter it may become practically impossible for them even to have an accommodation on rent especially in a city like Chandigarh - leaving aside the question of buying any house or property. In that case, the family will be on road unless the applicant is granted compassionate appointment.

4. The applicant has further stated that the point-based system adopted by the Central Government for determining the comparative destitution of the candidates is based on the guidelines for compassionate appointment. However, in the present case, the respondents are following the impugned seniority list placed at Annexure A-1. Here, the name of the applicant occurs at Sr. No. 102. However, the list contains number of cases where death has taken place even way back in 2009 and 2011.

5. The learned counsel for the applicant pleads that the action of the respondent department in following the list irrespective of the indigent position of the family and need for urgent help is itself not correct and proper. The applicant needs immediate consideration of her case due to the special circumstances by setting aside the seniority list.

6. The respondents have contested the claim of the applicant. They have basically reiterated the Scheme of



Compassionate Appointment and highlighted the objective as well as the limitation of granting compassionate appointment only upto the ceiling of 5% of vacancies under direct quota. The learned counsel for the respondents has relied upon number of judgements of the Apex Court and has also stated that the O.A. not being a Public Interest Litigation, it is not for the Court to lay down guidelines for granting compassionate appointments by setting aside the impugned seniority list being maintained by the Department.

7. The respondents have also stated that the case of the applicant was already considered and recommended in the light of the Scheme for Compassionate Appointment. The applicant already figures at Sr. No. 102 and her case will be taken up on her turn as per the policy being followed by the respondent department in this connection. It is also stated that the name of the applicant has been kept in the pool under the Scheme for Compassionate Appointment as the Department does not directly have adequate posts to accommodate these candidates in its own cadres. The respondents have also stated that there is no illegality in the seniority list being maintained in the department.

8. The Department has further stated that the applicant's mother is already in receipt of family pension of Rs.8,463/- per month besides other retiral benefits including leave encashment of Rs.4,04,530/-, GIS of Rs.30,000/- and GPF of Rs.6,13,326/-. The DCRG has not yet been released to the applicant as the family is yet to surrender the accommodation.



9. In view of these facts, the respondents have stated that no relief can be immediately granted to the applicant and her name can be considered only as per the seniority list being maintained by the Department.

10. I have heard the learned counsel for the opposite sides and have also gone through the pleadings. I have also given my thoughtful consideration to the entire matter.

11. I observe that the facts of the case are largely undisputed. It is not disputed that the applicant's case for compassionate appointment has already been considered and recommended by the respondent department. It is also not disputed that her name occurs at Sr. No. 102 in the seniority list for granting compassionate appointment being maintained by the respondent department. The applicant nowhere in the whole O.A. is challenging the award of points given to her while considering her case. She has also not challenged her position vis-à-vis other such cases for compassionate appointments. She, therefore, does not challenge the position at Sr. No. 102 given to her in the seniority list for compassionate appointment maintained by the respondent department. There is no challenge to point based system being followed by the department.

12. The only challenge is that the seniority list ignores the immediate requirement of the family and is containing names which are of the years as old as 2009 or 2011.

13. From the pleadings on record as well as arguments, it is clear that the challenge is to the issue that the seniority



being maintained by the respondents ignores the fact of the immediate need that a deceased government servant's family may require. The seniority list contains names of applicants where death occurred way back in 2009 and 2011. This makes the family of the deceased government servant where immediate help is required lower in consideration than the others, thereby delaying the process of actual grant of relief to such families. Obviously such families, from the point of view of the applicant, include the applicant and her mother as well.

14. I have perused the seniority list maintained by the department. The list contains 109 in all names and the name of applicant occurs at Sr. No. 102. The list does contain at least 1 name where death occurred in 2009, 3 names of 2011 and more than 10 names of 2012. It even contains a case where death occurred in 2003. The other cases are of 2013 onwards till 2018. Thus, the list does contain cases where deaths have occurred even more than 10 years back. Further, number of cases are continuing where death has occurred in 2012 and even earlier. Thus the names are continuing in the list for long years, without any relief to the family of the deceased employee. I observe that the list does not indicate as to in which order list has been maintained. It is definitely not with reference to the date of death. The aggregate points obtained by the family have also not been indicated in the list. As such, it is difficult to say whether list is maintained in that order. Perhaps, the list is being maintained in the order in which applications for compassionate appointment have been received in complete form.



15. Having observed the above, it is equally true that the name of the applicant occurs way down in the list at Sr. No. 102. This position is out of total 109 applicants. There is no dispute at all about the aggregate points obtained by the applicant or of other candidates. Hence, no case has been made out by the applicant showing the comparative position of her case vs-a-vis other cases as far as indigence of family is concerned.

16. The only case made out by the applicant is that the list contains old cases whereas in her case, death occurred in 2017 and still she is waiting for effective relief. But then, this argument can be turned the other way round to say that others are waiting for even longer for the same relief. The claim of the applicant that she needs immediate relief is not supported by any further evidence to show her immediate need vis-a-vis other candidates. The submissions made by the applicant are, therefore, found to be vague and general and not sufficient to make out her case of needing immediate help vis-a-viz other over 100 candidates who are above her in the seniority list.

17. It is also observed that the applicant has not made any of the other candidates as a party. Thus, they have no opportunity to defend themselves. This is despite the fact that any relief granted to her will be at the cost of others who are above her in the seniority list.

18. In view of the above, no case is made out for granting out-of-turn compassionate appointment to the applicant.



19. The O.A. is, therefore, dismissed being devoid of merits.

20. There is no order as to costs.

(AJANTA DAYALAN)
MEMBER (A)

Place: Chandigarh
Dated: 04.02.2021

HC*