

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.723/2004

New Delhi, this the 24<sup>th</sup> day of September, 2004

Hon'ble Shri S.K. Naik, Member(A)

Harish Kumar Sharma  
73/1, Street No.12  
Indira Park, Delhi-110051

.. Applicant

(Shri B.B. Kaushik, Advocate)

versus

Govt. of NCT of Delhi, through

1. Secretary  
Services Department  
Delhi Sectt. A wing, 5<sup>th</sup> Level
2. IP Estate, New Delhi  
Director of Education  
Old Secretariat, Delhi

..Respondents

(Shri Vijay Pandita, Advocate)

ORDER

By virtue of the present OA, applicant has assailed the order dated 21.9.2001 as also 7.10.2002 whereby his request for grant of compassionate appointment has been turned down by the respondents.

2. Briefly stated, applicant's father Shri Ghanshyam Das Sharma while working as TGT with the respondent-school died in harness on 3.10.1998, leaving behind his widow and three sons including the applicant. Applicant applied for appointment to a suitable Group C post on compassionate ground but the same was rejected vide communication dated 24.8.2000. His case was again recommended by Respondent No.2 However, it was again rejected by the impugned orders. Hence this application.

3. Learned counsel for the applicant has contended that vide order dated 10.12.2002 respondents have offered appointment on compassionate grounds to as many as 7 persons while the applicant has been discriminated. According to him all these beneficiaries are getting much higher amount of pension and that they have also got other DCRG compared to the applicant.

4. Respondents in their reply have contested the application. Citing a catena of judicial pronouncements of the apex court and also the DoPT instructions issued from time to time pursuant to the decisions of the apex court,

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respondents have stated that compassionate appointment can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group C or D post and that Tribunal/court cannot compel the authority to relax the ceiling limit of 5%.

5. Learned counsel for the respondents has contended that the Screening Committee in its meeting held on 12.7.2002 considered all cases afresh in accordance with DoPT guidelines when a balanced and objective assessment of financial conditions of family, its assets, number of dependents and age of the members of the family and liabilities etc. were taken into account. In this meeting, applicant's name was also considered but was not recommended on the basis of relative merits in comparison to other candidates. The said committee considered 471 cases out of which 118 cases were recommended for compassionate appointment against 110 vacancies. The criteria adopted by the Screening Committee was approved by this Tribunal in OA 3068/2002 decided on 11.9.2003.

6. The counsel continued his argument stating that the mother of the applicant owns a house, is receiving monthly pension of Rs.4666 and the deceased family received retiral benefits of Rs.5,78,165/- and therefore the committee felt that the financial background of the applicant was found to be more sound than the similarly situated other aspirants of compassionate appointment. That apart, there being restricted number of available vacancies for appointment against 5% quota meant for direct recruitment, respondents cannot accommodate each and every candidate. In view of this, the OA be dismissed, the counsel contends.

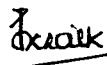
7. I have <sup>heard &</sup> learned the counsel for the parties and considered the pleadings. Law is well settled that the Tribunal cannot pass any order directing the respondents to grant compassionate appointment. In the case in hand, the case of applicant was duly considered by the Screening Committee but was not recommended; there being more deserving cases than his. He was also informed about this as back as on 24.8.2000 and again on 21.9.20 and 7.10.2002 when the respondents found no fresh grounds to reconsider the same. The main ground taken by the learned counsel for the applicant pertains to the appointment of persons on compassionate ground whose parents had expired later to the date of expiry of the father of the applicant <sup>and &</sup> who had also applied for appointment on compassionate ground on a date much later to that of the applicant. The counsel contends that the respondents should not have given preference for appointment on compassionate ground to the persons of later date. This argument, I am afraid, is not tenable as the request for compassionate appointment are bunched together and placed before the

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Screening Committee to decide on the criteria as to which of the persons is <sup>more</sup> meritorious than others so that most deserving persons are offered appointment against available vacancies, which is restricted to 5% of direct recruitment quota in a particular year. I find that the case of the applicant has been given full consideration by the respondents and the same very order which has been challenged by the applicant had also been challenged by some other similarly placed applicant i.e. Shri Kapil Anand in OA 3068/2002 and the Tribunal, vide its order dated 11.9.2003, after having perused the records and the Screening Committee report has held that "there were total 471 cases and the screening committee had followed a certain criteria as to who should be given the appointment. The committee had adopted different procedure such as the first priority for the family who are living in extremely indigent circumstances and having all children who are less than 12 years of age and no other source of livelihood e.g. rent, ownership of house etc.". The Tribunal in that case found that there being more deserving cases than that of the applicant therein, his case has been rightly rejected. The case of the applicant herein is no different and I find no reason to take a different view than the one arrived at in the aforesaid OA.

8. Resultantly, the present OA fails and is accordingly dismissed. No costs.

  
(S.K. Naik)  
Member(A)

/gtv/