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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A. No. 2001 of 1993

New Delhi this 6th May, 1994.

CORAM:

Hon'ble Mr. S. R. Adige, Member(A)

Dharampal
s/o Late Munna Lal,
37, Press Road (Minto Road)
New Delhi -110002

By Advocate Shri D. R. Gupta,Applicant.

Versus

1. The Director of Printing, Ministry of Urban Development, Nirman Bhawan, New Delhi.
2. The Manager, Govt. of India Press, Minto Road, New Delhi

By Advocate Shri M. K. Gupta

..... Respondents.

JUDGMENT

In this application, Shri Dharampal, whose father Shri Munna Lal, was a deceased employee in the Govt. of India Press, Minto Road has prayed for appointment to a suitable post in Group 'C' category on compassionate ground after declaring that his case is ^a more deserving one, and priority being given in this regard; and also to quash the order dated 26.8.92 (Annexure-A2) cancelling the allotment of Govt. quarter and order dated 17.9.93 (Annexure-A3) passed by the Estate Officer evicting the applicant from the said Govt. quarter.

2. The applicant's father Shri Munna Lal died in harness on 26.6.92 leaving behind his wife, four sons including the applicant and one daughter. The applicant's family is receiving Rs. 505/- p.m. as family pension and also received Rs. 53,431/- as DCRG,

G.P. fund balance and CGE Insurance.

3. I have heard Shri D.R.Gupta, learned counsel for the applicant and Shri M.K.Gupta, learned counsel for the respondents.

4. On behalf of the applicant, Shri D.R.Gupta has stated that the applicant's family is in great financial distress and deserves over-riding priority^{for} being granted compassionate appointment. He has also prayed that till the compassionate appointment is granted, or for a period of two years atleast, whichever is earlier, the applicant should not be evicted from the Govt. quarter allotted to his father and in this connection, he has cited the Hon'ble Supreme Court's ruling in 'Shipra Bose & another Vs. Union of India' (W.P.No.918/91 decided on 16.11.92).

5. The respondents have admitted that the applicant's case has been included in the panel list of pending deserving candidates for compassionate appointment prepared in accordance with this Tribunal's judgment dated 4.2.92 which directed the respondents to prepare a viable scheme on an All India basis to give their relief in such case to the deserving persons. In that judgment, the Tribunal had noted that the Govt. of India had as many as 23 presses located at various places in the country and it had been directed that all of them should be treated as a single unit for the purpose of making compassionate appointment. A further direction was issued that while preparing the scheme, the respondents should provide for giving priority to more deserving cases than the others.

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6. Shri M.K.Gupta, learned counsel for the respondents has pointed out that the above scheme was prepared by the respondents, and came up for consideration before the Tribunal, who in its order dated 16.4.93 in CCP No.138/92 expressed its satisfaction that honest efforts had been made to prepare the scheme in accordance with the Tribunal's judgment and hence those proceedings were dropped. As regards giving over-riding priority to the applicant for compassionate appointment, Shri M.K.Gupta stated that there were many similarly deserving cases who have been waiting in the queue longer than the applicant, and, therefore, it may be difficult to single out the applicant for out of turn compassionate appointment. He, however, stated that having regard to the number of persons in the waiting list, it was likely that the applicant's case would come up for consideration within a year or so.

7. Although Shri D.R.Gupta stated that the feature of the scheme prepared by the respondents was not the major issue in the CCP, the fact remains that the Tribunal in its order dated 16.4.93 has expressed its satisfaction about the scheme and has held that it has been prepared in accordance with the Tribunal's judgment, and as the applicant's name has been put on the panel for compassionate appointment in the light of that scheme, he will have to wait his turn in the list for being considered for compassionate appointment. No materials have been placed to justify the applicant getting out of turn priority and any 'pick and choose' policy would be arbitrary,

discriminatory and thus violative of Articles 14

and 16 of the Constitution. Shri D.R.Gupta has referred to the case of 'Smt. Phoolwati Vs. UOI' (Civil Appeal No.5967/90) in which the Hon'ble Supreme Court has directed the respondents to take immediate steps to appoint that applicant's second son in the Govt. press. That judgment had referred to the Hon'ble Supreme Court's earlier judgment in Smt. Sushma Gosain's case (AIR 1989 SC 1976) in which the need for providing the compassionate appointment with immediate effect to redeem financial distress was emphasised, if necessary by creating the supernumerary post, if no such post was validly available. Shri D.R.Gupta argued that ^{such a} ~~this~~ direction was necessary ^{in this case also}.

8. As the number of candidates awaiting consideration for compassionate appointment in the Govt. presses is quite large, it would be going beyond the scope and ambit of the Hon'ble Supreme Court's observations in Smt. Sushma Gosain's case (Supra) to direct supernumerary posts to be created for all of them, and to create such a post for the applicant alone, would lay such action open to the charge of being arbitrary, discriminatory and hence violative of Articles 14 and 16 of the Constitution. In this connection, in ^{of India, in} LIC Vs. Ms. A.R. Ambkar^{ed. Mr. + another} decided on 28.2.94 (JT 1994(2) SC 183), the Hon'ble Supreme Court has observed that "the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration..... The courts are to administer law as they find it, however inconvenient it may be..... Disregardful of law, however, hard the case may be, should never be done." Under the circumstances,

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any ^{un} differential treatment meted out to the applicant ^{to} would violate the spirit of the ruling cited above. Hence the prayer for a direction to the respondents to give the applicant out of turn priority for compassionate appointment is rejected.

9. As regard the prayer for quashing the orders i) cancelling the allotment of the Govt. quarter; and ii) evicting the applicant from the said quarter, I note the solemn assurance given by the respondents on affidavit in the reply to paragraph 8.1 of the O.A. that the applicant will not be evicted from the Govt. quarter till the finalisation of the case, subject to the applicant remitting rent for the said quarter in accordance with the rules. I take this to mean that the respondents will take no steps to evict the applicant from the quarter in question till the case of the applicant for compassionate appointment is finalised by the respondents, subject to the applicant remitting the rent for the said quarter as per extant rules. In this view of the matter, no interference to impugned orders dated 26.8.92 and 17.9.93 is called for at this stage. If, however, the respondents take any measure to violate their assurance, it will be open to the applicant to approach this Tribunal through a fresh O.A.

10. Subject to the observations contained in paragraph 9 above, this application is disposed of. No costs.

R. Adige
(S.R. ADIGE)
MEMBER (A)