

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 993 OF 2001

ALLAHABAD, THIS THE 13th DAY OF NOVEMBER, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Km. Manta Verma
daughter of Late Smt. Vishna Devi,
resident of House No.211/86, Prem Nagar,
Linepar, Bareilly, Uttar Pradesh.

.....Applicant

(By Advocate : Shri K. Ajit)

V E R S U S

1. Union of India through Commissioner,
Kendriya Vidyalaya Sangathan, New Delhi.
2. Kendriya Vidyalaya Sangathan,
(Estt.IV Section) 18, Institutional Area,
Saheed Jeet Singh Marg, New Delhi-110 016
through Education Officer.
3. The Assistant Commissioner, Kendriya Vidyalaya
Sangathan, Regional Office, Delhi.
4. Principal, Kendriya Vidyalaya Air Force,
Station, Bareilly-243002.

....Respondents

(By Advocate : Shri N.P. Singh)

O R D E R

By this O.A. applicant has challenged the order dated 01.09.2000 and 05.04.2002 whereby applicant's request for grant or compassionate appointment was rejected.

2. Vide order dated 01.09.2000, applicant was informed that her case was considered sympathetically but the same could not be acceded to by the competent authority(Pg.15). In the



order dated 05.04.2002, applicant was informed that her case has been considered sympathetically by the appropriate authority but since no post is available in the grade of L.D.C. for direct recruitment against which her case could be considered, therefore, her request for compassionate appointment could not be acceded to. It is submitted by the applicant that her mother Smt. Vishna Devi, P.R.T. died on 04.04.2000 while in service and her father is a seventy years old physically handicapped person, who is not even able to do daily routine work. Since applicant was well qualified for the post of L.D.C., she gave an application for compassionate appointment under dying in harness rules, which was duly forwarded by the respondent No.4 to respondent No.3 (Annexure-3). It is submitted by the applicant that first time her request was rejected without applying their mind as no reason was given therein. However, she was informed that, in case, she ^{has knowledge} ~~applies~~ in diploma computers, her candidature would be considered for her appointment. She, therefore, completed diploma in computers and submitted a fresh application, which was also forwarded by the respondent No.4 to respondent No.3 vide letter dated 08.11.2000(Annexure-5). This time she was orally informed that her application has been rejected without serving an order on her.

3. Grievance of the applicant in this case is that even though, her case has been rejected but another lady namely Mr^s P.C. Naithani whose husband was a Librarian and who died



at a subsequent point of time namely on 15.06.2000. His wife was given compassionate appointment as L.D.C. at Kendriya Vidyalaya IVRI, Bareilly in May 2001. It is thus, submitted by the applicant that respondents are acting in arbitrary manner and even though, she was fully entitled for grant of compassionate appointment, yet her case has been ignored while giving compassionate appointment to Mrs. Naithani. It is further submitted by the applicant that she has no source of livelihood as the only earning member in the family was her mother and she has to bear the entire load of her ailing father and her younger sister. Thus, finding no other option, ~~but~~ *she had* to file the present O.A.

4. In the Counter Affidavit, respondents have opposed this O.A. on the ground that Smt. Vishna Devi P.R.T. Served the institution from 19.08.1991 to 04.04.2000 when she died due to illness. They have submitted that case of the applicant was duly considered by the authorities but she could not be granted the same first time as she did not fulfil the requirements as per recruitment rules. *After R* She completed the computer course, her case was again considered on 05.03.2001 but this time her case did not come within the limit of 5% and yet her case was considered third time on 05.04.2002 when she could not be recommended for compassionate appointment as there was no vacancy available in the direct recruitment. As ^{as} per the case of Shri P.C. Naithani is concerned, they have stated that on

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consideration of all the candidates, she secured high merit therefore, her case was recommended for compassionate appointment. Therefore, it cannot be said that applicant has been discriminated against, as her case has been considered not once but three times. They have further submitted that nobody can claim compassionate appointment as a matter of right as at best they have a right of being considered. They have further submitted that father of the applicant Shri Laxmi Narayan Verma is neither physically handicapped nor is 70 years old but he is a sound and healthy man of 48 years, as his date of birth shown in the transfer certificate issued from the college is 17.06.1952. They have annexed the college certificate as Annexure SCA-I. Moreover, father of the applicant owns a house in the city and is getting monthly family pension of Rs.2,950/- plus allowances. He was also paid an amount of Rs.97,704/- as Gratuity, Rs.70,676/- as G.P.F. and Rs. 22,225/- as encashment of leave, apart from getting Rs.50,000/- and Rs.25,000/- against Life Insurance Policy. Moreover, they are yet to be paid Rs.1,00,000/-(One Lac) on account of L.I.C. Policy, Rs.50,000/- and Rs.30,000/- on account of Group Insurance etc. Therefore, the case of the applicant could not be ~~considered~~ ^{acceded to} ^{in mind}, keeping all these aspects while reconsidering the case for grant of compassionate appointment. They have thus, submitted that the O.A. may be dismissed with costs.

5. I have heard both the counsel and perused the pleadings as well.

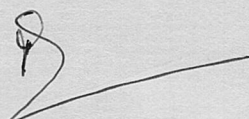


6. Since applicant's counsel had specifically submitted that applicant's case has not at all been considered by the respondent and as compared to the case of Mrs. P.C. Naithani. She had a better claim since both the ladies had the same qualifications in computers and her mother had died at an earlier date than ^{that} of Mrs. Naithani and computer was not at all a requirement as per the recruitment rules for the post of L.D.C. Therefore, we had directed by our order dated 29.04.2003 to the respondents to produce Recruitment Rules for the post of L.D.C. in Kendriya Vidyalaya Sangathan as well as the proceedings before the committee where case of both the ladies ~~and~~ namely applicant as well as Mrs. P.C. Naithani were considered.

7. Counsel for the respondents produced the records for court's perusal and it is seen that as per the recruitment rules for the post of L.D.C., the following Educational Qualifications were required for direct recruitments:

- " i. Matriculation or equivalent.
- ii. Typing Speed at least 30 w.p.m. in English for English Typist and 25w.p.m. in Hindi for Hindi Typist.
- iii. Working knowledge of Hindi.
- iv. Knowledge of Computer Operation."

Therefore, it is clear that knowledge of Computer Operation was very much required as per Recruitment Rules itself and as per applicant's own showing, she did not have the knowledge in computer operation when her case was considered for the first



time on 01.09.2002. Thereafter her case was again considered by the committee on 05.03.2001 alongwith Mrs. P.C. Naithani and other candidates. Respondents have prepared a detailed list of as many as 70 candidates who had all applied for compassionate appointment and after considering the various factors, the case of Mrs. Naithani was recommended ~~and~~ having been found more suitable than the applicant. Therefore, it cannot be said by the applicant that her case was not considered by the respondents. It is further seen that in the proceedings, it was categorically mentioned that there are 111 vacancies of L.D.C. in Kendriyay Vidyalaya Sangthan, out of which 11 vacancies are ^{meant} ~~are~~ ^L ~~not~~ for promotion from Group 'D' cadre. Therefore, from amongst 100 vacancies meant for direct recruitment, only 5 vacancies could have been filled by way of compassionate appointment. Out of list of 70 candidates, 36 candidates had applied for the post of L.D.C. and on the basis of recommendation made by the committee, 5 persons were already recommended. Therefore, naturally, applicant being lower in the candidates who were recommended, could not find place in the list of candidates who were recommended for compassionate appointment. Perusal of proceedings show that it comprises of ^{senior} members and applicant has not alleged malafide against the members of the committee. Since her case has already been considered by the constituted committee who had recommended the names on the basis of various factors shown in the list itself, it cannot be said that respondents have acted in arbitrary manner. In fact after 05.03.2001, applicant's case was considered yet again on 05.04.2002 when


her case was rejected for want of vacancy, which was communicated to the applicant vide letter dated 05.04.2002.

8. Counsel for the applicant submitted that this reasoning is absolutely wrong because vide order dated 27.08.2002 number of persons were promoted from L.D.C. to U.D.C., therefore, the vacancies were very much available with the respondents. He has annexed a copy of the order dated 14.08.2002 along-with his supplementary affidavit, which shows that as many as 65 L.D.Cs were promoted as U.D.C., therefore, it is submitted by the applicant's counsel that respondents could always have considered the case of the applicant against those vacancies. However, the respondents have submitted in their Supplementary Counter Affidavit that number of existing L.D.Cs are rendered surplus on account of revised staff strength of Kendriyay Vidyalaya Sangathan, therefore, no direct recruitment can be done in the grade of L.D.C. during recruitment year 2001-2002 and 2002-2003. It is seen that applicant's case was reconsidered on 05.04.2000 whereas promotion order is dated 27.08.2002 which is on a later date. This way, if we go on and on, this will be never ending process because in an organisation, there are bound to be vacancies at later point of time but that does not mean that whenever, there is a vacancy, applicant should be considered for those, indefinitely. I have seen the records and am satisfied that applicant's case has duly been considered by the respondents and rejected for the reasons as mentioned above. So long, the case has been considered on the basis of factors mentioned in the proceedings, I do not think it calls for any interference by the Tribunal as we



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cannot sit in appeal over the recommendation made by the
duly constituted selection committee. Since her case has
already been considered, it calls for ^{no} ~~any~~ interference. The
O.A. is accordingly dismissed with no order as to costs.


MEMBER (J)

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