

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.1528/2017

MA No.1647/2017

MA No.1648/2017

MA No. 1649/2017

New Delhi this the 16th day of March, 2018

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

1. Bimlesh Tomar, aged 45 years,
W/o Mr. (Late) HC Rakesh Kumar No.574/SD,
R/o RZH 2/150, Bengali Colony,
Mahavir Enclave, Palam,
New Delhi-110045
 2. Bharti Tomar,
D/o Mr. (Late) HC Rakesh Kumar No.574/SD,
R/o RZH 2/150, Bengali Colony,
Mahavir Enclave, Palam, New Delhi-110045
- Applicants

(By Advocate: Shri V.N. Jha)

Versus

1. The Dy. Commissioner of Police
South District, New Delhi
 2. The Commissioner of Police,
Delhi Police Head Quarter,
ITO, New Delhi-110002
- Respondents

(By Advocate: Sh. KM Singh)

ORDER (Oral)

MA No. 1647/2014 for condonation of delay in refilling the OA is allowed for the reasons stated therein. MA No. 1648/2017 for joining together is allowed. MA No. 1649/2017 for exemption is also allowed.

2. This Original Application (OA) has been filed by the applicants claiming the following reliefs:-

“a) That the order dated 13.11.2015 passed by the respondent no.2 may be set aside and the Applicant no.2

may be appointed as W/Ct. (executive) in Delhi Police on compassionate grounds.

b) Any other order may be passed which may be deemed fit in the interest of justice in the facts and circumstances of the present case.”

3. The facts, in brief, are that the applicant no.1, Bimlesh Tomar, is the widow of Late Shri Rakesh Kumar Tomar, who was working as a Head Constable in Delhi Police and was a permanent employee. An FIR No. 114/20012 was registered against the said Rakesh Kumar Tomar with the PS Gannaur, Distt. Sonapat, Haryana u/S 420/456/468 IPC. The services of the late husband of the applicant no.1 were suspended w.e.f. 13.04.2012. A departmental enquiry was initiated against him. During the pendency of the departmental enquiry, on 30.06.2014, he expired due to heart failure leaving behind applicant no.1 (wife), applicant no.2(daughter), Nikhil Tomar (elder son mentally retarded) and Adity Tomar (minor son). Consequently, on 23.07.2014, the respondent no.2 dropped the enquiry proceedings against the said Rakesh Kumar Tomar and further the period spent by him under suspension w.e.f. 13.04.2012 to 30.06.2014 were treated as period spent on duty for all intents and purposes. Due to the death of the said Rakesh Kumar Tomar, the Sub-Divisional Magistrate (SDM) also dropped the judicial proceedings against him in the said FIR No. 114/2014 on 01.11.2014. Vide office order dated 26.11.2014, the name of the

deceased husband of the applicant was removed from the list of Police personnel facing criminal cases from the role of Delhi Police w.e.f. 01.07.2014. The applicant no.1 made a request on 23.06.2015 for appointment of her daughter, i.e. applicant no.2 as Women Constable in Delhi Police on compassionate grounds, which was rejected by the respondent no.2 vide letter dated 13.11.2015 on the ground that it is not covered under the criteria of DoPT instructions and Standing Orders 39/2014. Hence, the instant OA.

4. The learned counsel for the applicants has also relied upon the order dated 11.01.2013 passed by the Tribunal in OA No. 2179/2012 in the matter of **Sita Devi v. Union of India & Ors.**, to contend that “the pendency of disciplinary proceedings or criminal trial against a Government servant at the time of his death may be no ground to deny the benefit of welfare scheme to dependents/bereaved family.”

5. The respondents, in their reply, stated that the name of Ms. Bharti Tomar (applicant no.2 herein) d/o late HC Rakesh Kumar Tomar was considered by the Police Establishment Board in its meeting held on 19.10.2015 but could not be considered/approved as the case of candidate was found “not covered case” as per the Standing Order No. 39/2014 which provides that “the benefit of appointment on compassionate

ground will not be available to the dependents of a Government servant in case the Govt. servant was involved in criminal cases and other undesirable activities or was dismissed from service for his proven involvement in criminal cases.” They have thus prayed that the OA be dismissed.

6. I have heard the learned counsel for the parties and gone through the pleadings.

7. It is an admitted position that the respondents on demise of Shri Rakesh Kumar Tomar, deceased husband of applicant no.1 dropped the departmental enquiry proceedings against him and consequently, the period spent by him under suspension w.e.f. 13.04.2012 to 30.06.2014 has been treated/decided as “period spent on duty” for all intents and purposes. Even, the SDM, Ganaur, vide order dated 01.11.2014, also dropped the judicial proceeding against the said Rakesh Kumar Tomar in the said case vide FIR No. 114/2012 on the ground of his demise.

8. Admittedly, the respondent no.2 also removed the name of the said Rakesh Kumar Tomar from the list of Police personnel facing criminal cases w.e.f. 01.07.2017 due to his sudden death on 30.06.2014.

9. It is also to be noticed that the respondents have rejected the request of the applicant no.1 for appointment of applicant no.2 on compassionate grounds vide impugned order dated 13.11.2015

without even considering the pecuniary conditions of the family of the applicants, which the respondents ought to have considered while rejecting the same. Thus the reasoning given by the respondents for rejection of the application of the applicants for compassionate appointment of applicant no.2 has no connection with the object on which the scheme of the compassionate appointment is to be based.

10. In the above facts and circumstances of the case, the impugned order dated 13.11.2015 is quashed and set-aside. Consequently, the respondents are directed to consider the case of applicant no.2 for compassionate appointment as Women Constable (Exe.) in Delhi Police strictly in terms of the Scheme for compassionate appointment as framed by the Government of India and if she is otherwise considered eligible in terms of the provisions thereof, she should be given the appointment. The Respondents shall comply with the aforesaid direction within a period of three months from the date of receipt of a copy of this order by considering her claim in the next meeting of the Committee for Compassionate Appointments.

11. With the above directions, the OA is allowed. No costs.

(NITA CHOWDHURY)
MEMBER (A)

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