

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.3672/2015

**Reserved on :11.10.2017
Pronounced on:21.11.2017**

Hon'ble Ms. Praveen Mahajan, Member (A)

Subodh Ram
Aged about 32 years
Son of Late Mr. Dev Narayan, deceased Mechanic
Delhi Milk Scheme, West Patel Nagar, New Delhi.
Resident of F-466, Mangolpuri
New Delhi :110 083.

.... Applicant

(By Advocate:Shri Pradeep Kumar)

VERSUS

1. Union of India
Through/service to be effected upon its;
Secretary,
At: Ministry of Agriculture and Farmers Welfare
Krishi Bhawan, New Delhi : 110 001.

2. Delhi Milk Scheme
Through/service to be effected upon its:
General Manager, At: West Patel Nagar
New Delhi : 110 008.

.... Respondents.

(By Advocate:Shri Gyanendra Singh)

ORDER

The current OA has been filed against the impugned order dated 20.06.2015 of the respondent no.2 rejecting the application of the applicant for appointment on compassionate grounds.

2. Briefly stated, the case of the applicant is that the father of the applicant, an employee of Delhi Milk Scheme (DMS) expired on 16.11.2012 due to injury suffered while on duty. On 27.05.2013, the wife of the deceased requested for compassionate appointment and submitted that in place of her husband,

her son Shri Subodh Ram, the (current applicant) be appointed. In response to her query under RTI on 08.12.2013, she was informed by DMS that :-

"8) For appointment on compassionate grounds, family member of the deceased is required to submit application in Delhi Milk Scheme. Upon which concerned Committee deliberate and takes decision.

9). If because of any accident, any employee dies in Delhi Milk Scheme, then the employer has pay compensation according to Sub Section (1) of Section (3) of the Workman Compensation Act, 1923

And

According to Section 4(1) (a) if any employee suffers injury then a sum of Rs.One Lakh Twenty Thousand (Or more) is paid.

3. On 15.06.2015, the mother of the applicant again made a representation to the respondents narrating the pathetic plight of the family and requesting consideration of the case of the applicant for appointment on compassionate grounds and payment of requisite compensation to the family of the deceased. On 18.06.2015, she sought further information from the respondents seeking the following information :-

- "a. Please inform nomenclature wise, as on 01.01.2015 sanctioned and filled posts as existent in Delhi Milk Scheme.**
- b. Please inform nomenclature wise, with effect from 01.01.2013 to till date, number of direct appointments made by Delhi Milk Scheme.**
- c. Please inform nomenclature wise, with effect from 01.01.2013 to till date, number of appointments made by Delhi Milk Scheme under Compassionate appointment Quota.**
- d. Please inform nomenclature wise as on date, number of sanctioned, filled and vacant posts under Compassionate appointment quota.**
- e. Please provide a copy of the order, policy, decision, if any, governing Compassionate Appointments in Delhi Milk Scheme.**

- f. Please provide a copy of the Managing Committee, Delhi Milk Scheme, decision, if any to ban direct recruitment and recruitment under compassionate appointment quota.**
- g. Please inform name and designation of Delhi Milk Scheme employees, who during the period from 01.01.2011 to till date while on duty got injured in Delhi Milk Scheme.**
- h. Please inform name and designation of employees, who during the period from 01.01.2011 to till date while on duty immediately or because of aforesaid injuries sustained in accidents later on died later on, in Delhi Milk Scheme.**
- i. Please inform per person, compensation if any given to aforesaid injured or family of deceased employees by Delhi Milk Scheme during the period 01.01.2011 to till date and if no compensation apart from terminal dues have been paid, please intimate the name and designation of the officers, responsible for delay in releasing said compensation."**

4. In reply, the applicant was informed on 20.06.2015 by DMS that as per the Management Committee's decision on 08.05.2007 it has been decided that "there is no need to fill up vacant direct recruitment post on Compassionate Grounds, in view of the fact that no recruitment against direct quota is being made". The Respondent no.1 assured the applicant that if in future 'DMS' takes any decision to fill up any post via direct recruitment on compassionate grounds, her case would be considered. Necessary information asked for by the applicant was replied to by DMC on 20.08.2015 confirming the same stand. The applicant submits that decision/communication dated 20.06.2015 of DMS was untenable and against the spirit of Scheme for compassionate appointment and has defeated the right of the applicant to be considered for compassionate appointment.

5. Since a number of group 'C' posts are vacant under direct recruitment quota with the respondents, she has sought the following reliefs :-

- “a. Quashing and Setting aside of ‘DMS’ communication no.11069-01/09 dated 20.06.2015 [Annexure A-1];**
- b. Directing respondents to forthwith consider claim of the Applicant for Compassionate Appointment with suitable relaxations as permissible under the Scheme for Compassionate Appointment;**
- c. Any other or further order or direction to grant complete relief to the applicant.”**

6. The respondents, in their counter, state that vide Order No. CEC/D/82/WD/15/988 dated 19.05.2016 in the matter of Smt. Urmila Devi W/o late Shri Dev Narayan, a cheque dated 23.07.2016 for Rs.7,03,185/- (Rupees Seven Lac Three Thousand One Hundred Eighty Five only) has already been issued to the applicant. It is further contended that DMS is a subordinate office under Ministry of Agriculture and Farmers Welfare. As per Management Committee decision 08.05.2007 it has been decided that there is no need to fill up vacant direct recruitment posts on compassionate grounds. There are already about 79 applications pending in Delhi Milk Scheme on compassionate grounds and the applicant’s request is placed at sl. No.76 of the list. The respondents submit that the applicant’s mother has been informed that if in future Delhi Milk Scheme takes any decision to fill up any post via direct recruitment on compassionate grounds, the case of the applicant would also be considered.

7. I have gone through the facts of the case and find that the respondent i.e. Delhi Milk Scheme (Respondent No.2) are following the decision of the Management Committee of the Ministry of Agriculture dated 08.05.2007 held under the Chairmanship of (JS C&DD), Department of Animal Husbandry, Dairying and Fisheries. Hence DMS cannot be faulted for the impugned order dated 20.06.2015 under challenge. But the fact also remains that the benefit of being considered for compassionate appointment is being denied to the

applicant (alongwith many others), for no fault of his. Since vacancies exist in direct recruitment quota, it is not understood how such recruitment can be banned by the Management Committee, *suo moto*, when no such ban has been imposed by Government of India. As per General Rule 16 of the Scheme, it is laid down that :-

"16. (c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family, etc.

(d) Compassionate appointment should not be denied or delayed merely on the ground that there is reorganisation in the Ministry/Department/Office. It should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he or she is found eligible and suitable under the scheme."

8. As long as this Scheme is in existence, no Ministry can stop the direct recruitment for compassionate quota, on their own. This would be incorrect and contrary to the Scheme put in place by Govt. of India as a welfare measure for government employees. Hence, I direct the Respondent No.1 to immediately review/revisit the decision dated 08.05.2007, taken by the Management Committee, referred to above. This must be done within a period of three months from the date of receipt of this order. The case of the

applicant (alongwith others) may be considered thereafter, as per law and his eligibility. The OA is disposed of with these directions. No costs.

(Praveen Mahajan)
Member (A)

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