

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2777/2016

Reserved on : 25.10.2018.

Pronounced on : 29.10.2018.

Hon'ble Ms Praveen Mahajan, Member (A)

Shri Rohit Choudhary, 24 years
S/o Late Sh. Dharam Singh,
C-12/324, Yamuna Vihar,
Delhi-110053.

.... Applicant

(through Sh. Prince Arora, Advocate)

Versus

Delhi Development Authority
Through the Chairman,
Vikas Sadan,
New Delhi-110033.

.... Respondent

(through Ms. Sriparna Chatterjee, Advocate)

ORDER

The brief facts of the current O.A. are that the applicant's father (Sh. Dharam Singh) died at the age of 51 years leaving behind his widow, two sons and one daughter. The deceased (Sh. Dharam Singh) was the sole bread earner of the family, his wife was a house wife and the three children were studying at the time of his death.

2. The applicant in the O.A. (Sh. Rohit Choudhary) applied for compassionate appointment for any post in the department after

obtaining diploma in Civil Engineering. The applicant was asked to complete certain formalities and to submit his documents before the competent authority before his case could be considered. The applicant states that he complied with the necessary directions and the matter kept pending before the competent authority for consideration of his appointment for quite a few years. However, on 29.04.2015, the applicant received a letter from the respondents rejecting his application on the ground that since the elder son (brother of the applicant) of the deceased is earning, hence his request for appointment on compassionate grounds is rejected. The same ground has been taken for rejecting the claim of the applicant in the counter affidavit filed by the respondents. The respondents state that the request of the applicant was considered by the Screening Committee on 24.02.2015, 26.02.2015, 27.02.2015, 03.03.2015 and 18.03.2015 but could not be acceded to keeping in view the guidelines relating to the policy governing compassionate appointment and the fact that the elder brother of the applicant was earning.

2. During the course of hearing, the learned counsel for the applicant stated that the request of the applicant for compassionate appointment has not only been delayed but has also been rejected by way of an order, which is vague. Learned counsel argued that it was incumbent upon the respondents to

atleast check the amount of earnings of his elder brother and whether the same are enough to sustain the family. He pointed out that the earnings of the elder brother of the applicant are meager and the respondents have not produced any documentary evidence to prove that financial crisis, which befell the family of the deceased is over. He, therefore, pleaded that the respondents be asked to reconsider their decision rejecting his request for compassionate appointment after affording him an opportunity to explain the ground reality.

3. Learned counsel for the respondents reiterated the issues already raised in the counter and stated that compassionate appointment is not a back door mode of appointment and the whole object of granting such appointment is to enable the family to tide over the sudden crisis and to relieve the family from financial stress to get over the emergency. In the instant case, Committee felt that the case fell outside the prescribed parameters for compassionate appointment, since one member of the family is already earning and there is reportedly no other liability.

4. I have gone through the facts of the case and I feel that the impugned order dated 29.04.2015 has been issued after taking into account the fact that one member of the family of the deceased is already earning. I am not impressed by the arguments advanced by

the learned counsel for the applicant that the respondents should have given him a hearing to check the exact emoluments which his brother was earning and whether or not it is sufficient to cater to needs of the family. Grant of compassionate appointment is the discretion of the employer by using it in a judicious manner while evaluating the circumstances of the applicant's family. In the present O.A., out of the three children which the deceased left behind the sister of the applicant is married and his brother already has a job. It is a settled law that appointment on compassionate ground cannot be claimed as a legal right and financial stress has to be computed in relative terms. The applicant, who is well qualified with an Engineering Diploma cannot claim compassionate appointment as a matter of right. The circumstances of the family have changed for the better since time of his father's death. Hence, the request of the applicant does not warrant interference by the Tribunal in the instant case. O.A. is accordingly dismissed. No costs.

(Praveen Maharaj)
Member (A)

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