

**Central Administrative Tribunal
Principal Bench**

OA No. 1251/2017

New Delhi this the 17th day of May, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Raj Kishan, Aged 28 years, Group D,
Son of Late Nafe Singh,
R/o Village & Post Office Ravi,
Tehsil Madloda,
District Panipat (Haryana)
Pin-132103

- Applicant

(By Advocate: Mr. Bharat Bhushan Kaushik)

VERSUS

1. Delhi Development Authority
Through its Vice Chairman,
Vikas Sadan, INA, New Delhi-110023

2. The Commissioner (Personnel)
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi-110023 - Respondents

(By Advocate: Ms. Sriparna Chatterjee)

ORDER

The present OA has been filed by the applicant,
seeking the following reliefs:-

- “i. Pass an appropriate order directing the respondents to immediately consider the claim of the applicant and grant him appointment on any suitable Class IV post on compassionate grounds, in the interest of justice; or

- ii. Pass any other order which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the present case.”

2. The applicant in this OA has, *inter alia*, challenged the impugned order dated 05.05.2015 whereby the respondents have rejected his application dated 08.01.2012 for compassionate appointment on the grounds that he is less educated and therefore, unfit for appointment on any post in DDA as per the Recruitment Rules and that the family circumstances are also not poor. The applicant submits that his case for compassionate appointment was not considered properly as he possesses the required qualification of 8th pass for the Class IV Group 'D' posts in DDA and also that the claim of the respondents that in his present family circumstances, he is not poor is also baseless as they have given appointments to other persons having much better family background than the applicant.

3. The respondents have controverted the aforesaid contentions of the applicant and stated that pursuant to the application of the applicant dated 18.01.2012, his case was placed before the Screening Committee and was considered in the meetings held on 24.02.2015, 26.02.2015, 27.02.2015, 03.03.2015 and 18.03.2015. After due consideration, the Screening Committing did not recommend the name of the applicant for appointment on compassionate grounds for the reasons that he is less qualified for any post as per the RRs of the DDA and the family of the deceased is also not in financial distress condition.

4. Heard both the parties and perused the material available on records.

5. The legal position is well settled that appointment on compassionate ground is not a source of recruitment, but merely an exception to the requirement regarding appointments being made on open invitation of applications on merits. The underlying intention is on the death of the employee concerned, his family is not deprived of the means of livelihood. The object is to enable the family to get over the sudden financial crisis faced by them on the demise of the sole earning member. In the case of **Union of India & Anr. Vs. Shashank Goswami & Anr.** reported as (2012) 11 SCC 307, the Apex Court has observed as under:-

"The claim for appointment on compassionate grounds is based on the premise that the applicant was dependant on the deceased employee. Strictly, such a claim cannot be upheld on the touchstone of Article 14 or 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service, and, therefore, appointment on compassionate grounds cannot be claimed as a matter of right."

6. The claim of compassionate appointment in this matter has been fairly considered by the respondents as per the existing policy guidelines. Once the respondents have fairly considered the application made for compassionate appointment, it is not open to the Tribunal to question the

decision of the respondents, except if they have not followed the rules laid down for compassionate appointment fairly.

7. Further in the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489, the Hon'ble High Court clearly held as under:-

“14. The mandate of the Supreme Court is very clear from the aforesated judgments that it is not for the High Court in exercise of its powers under Article 226 of the Constitution of India to interfere with the decision arrived at by the competent authority while considering the eligibility of an applicant for appointment on compassionate basis and all it can do is to see whether the decision of the competent authority is vitiated. Having scrutinized the cases in hand in the aforesaid background, this Court does not consider it appropriate to interfere with the findings of facts and the conclusion arrived at by the competent authority.”

8. In view of the above, this Court is unable to interfere with the impugned order.

9. However, this Court is well aware that DoPT has issued a consolidated instructions with regard to compassionate appointments vide OM No.14014/02/2012-Estt.(D) dated 16.01.2013. The applicant can, if he so desires, again apply for compassionate appointment as per the instructions of the said OM. If any such fresh application is moved by the applicant, the respondents shall consider the same in the next meeting of the Compassionate Appointments Committee in terms of the aforesaid OM and the decision so taken shall be communicated to the applicant within 60 days from the date of the decision of the Screening Committee.

9. With the above directions, the OA stands disposed of.

No costs.

(Nita Chowdhury)
Member (A)

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