

**Central Administrative Tribunal
Principal Bench**

OA No. 1002/2018

New Delhi this the 24th day of September, 2019

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

Divesh Kumar
Aged about 28 years
H.No.20, Servant Quarters
South Avenue, Central Delhi,
Delhi – 110 001.

....Applicant

(None)

Versus

1. Secretary to Government of India
Ministry of Urban Development
Nirman Bhawan,
New Delhi.

2. Director General (CO-ordination)
Northern Region, C.P.W.D.
East Block-1, Floor-7
Rama Krishna Puram
New Delhi – 110 066.

3. Superintending Engineer
Presidents Estate Circle
Central Public Work Department
Rashtrapati Bhavan,
New Delhi – 110 004.

4. Executive Engineer
President's Estate Circle
Central Public Work Department
Rashtrapati Bhavan,
New Delhi – 110 004.

....Respondents

(By Advocate: Mr. Piyush Gaur)

ORDER (ORAL)

The applicant has filed this Original Application, seeking the following reliefs:-

- a) Direct the respondents to consider and appoint the applicant to the post of Baildar with all consequential benefits.
- b) Award the cost and compensation to the applicant for suffering due to the illegal act of Respondent.
- c) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicant.

2. When the matter is taken up for hearing, it is noticed that nobody had appeared for the applicant even on the previous date 16.09.2019. Today also, nobody appears for the applicant even in the revised call. The Tribunal is, therefore, constrained to proceed with the matter under Rule 15 of the CAT (Procedure) Rules, 1987.

3. It is the case of the applicant that his late father Sh. Raj Kumar, while working as Beldar in the Office of President's Estate Circle, CPWD, Rashtrapati Bhawan, New Delhi, had died in harness on 04.01.2009 leaving behind his wife Smt. Rekha Devi, two sons, namely, Divesh (Applicant) and Abhishek and one daughter, namely, Anjali. The applicant, while facing financial

hardships due to sudden demise of his father, had submitted several applications for appointment on compassionate grounds from time to time but to no avail, as the respondents have not considered his application on merits and had adopted a very rude and unsympathetic attitude towards his case. The applicant has submitted that the respondents appear to have been guided by the wrong precedent of considering the cases for compassionate appointment. Hence, the applicant has filed the present OA.

4. The respondents, in reply to the above, have filed their reply in which they have been able to show that the case of the applicant for appointment on compassionate grounds was considered by the Compassionate Appointments Committee in its meeting held on 29.09.2017 for the post of Beldar and Khallasi for the vacancy period 01.07.2016 to 31.12.2016, but he was not offered compassionate appointment as the weightage point obtained by the applicant was 86, whereas the two selected candidates for the post of Beldar had secured more weightage points than that of the applicant in the said vacancy period as is evident from the list placed at Annexure A of the OA. The

respondents have also been able to show from Annexure A-2 of the OA that the name of the applicant appeared at SI. No.34 of the list of candidates considered for compassionate appointment, whereas only two vacancies for the post of Beldar were available. We also find the minutes of the meeting placed at Annexure A-1 which was also uploaded on the departmental website, namely, cpwd.gov.in, Northern Region. Hence, uploading of the minutes of meeting is a communication to all the applicants. Hence, it cannot be said that the applicant was not communicated the decision of the CAC. It is also not within the domain of the Tribunal to assess the weightage points secured by the applicant vis-à-vis other applicants who applied for compassionate appointment as per the decision of the Hon'ble High Court in the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489 which reads as under:-

"14. The mandate of the Supreme Court is very clear from the aforesaid 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."

5. In view of the above factual position, there is no merit in the OA and the same is dismissed. No order as to costs.

(Nita Chowdhury)
Member (A)

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