

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

O.A. NO.2567 of 2017  
MA NO.2720 of 2017

This the 4<sup>th</sup> Day of September 2019

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

1. Murti Devi (Compassionate Appointment)  
Aged about 55 years,  
W/o Late Sh. Ishwar Singh, No. D/3951  
R/o Village Dabodha Khurd, Jhajjar,  
Haryana.
2. Sachin  
Aged about 19 years,  
S/o Late Ishwar Singh, No. D/3951  
R/o Village Dabodha Khurd, Jhajjar,  
Haryana.

....Applicants

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. The Commissioner,  
Delhi Police,  
Police Head Quarter,  
I.P. Estate, New Delhi.
2. The Dy. Commissioner of Police/PIO  
11<sup>th</sup> I.R. Bn.  
Delhi Police, Delhi.

.....Respondents

(By Advocate : Shri H.A. Khan for Ms. Sumedha Sharma)

**O R D E R (Oral)**

**MA 2720/2017**

This MA has been filed by the applicants seeking joining together in a single OA. For the reasons stated in this MA, the same is allowed. The applicants are permitted to join together in a single OA.

## **OA 2567/2017**

By filing this OA, the applicants are seeking the following reliefs:-

- “(a) To quash and set aside the order dated 28.07.2016 (Annexure A-1) and direct the respondents to consider the claim of the applicant no.2 for appointment on compassionate ground.
- (b) To declare the action of respondents in treating the elder son residing separately from deceased family as part of dependents/family as illegal and direct the respondents to consider the claim of applicant no.2 for appointment on Compassionate grounds without being influenced by appointment of elder son in Delhi Police.
- (c) to allow the OA with cost.
- (d) to pass such other and further orders which their lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

2. In this case, the applicants are challenging the order dated 28.7.2016 vide which application for grant of compassionate appointment to applicant no.2 was rejected by the respondents.

3. Pursuant to notice issued to the respondents, they have filed their reply in which they have stated that Shri Ishwar Singh (husband of applicant no.1 and father of applicant no.2) while serving as SI (Exe.) in Delhi Police expired on 22.3.2013. Applicant no.1, wife of deceased SI had submitted an application on 24.11.2015 for the appointment of her son (applicant no.2) on compassionate grounds in Delhi Police as

Constable. The case was considered by the Police Establishment Board in its meeting held on 24.6.2016 and the same could not be approved due to finding that the applicant was less deserving in compassion to the similarly placed other cases seeking compassionate appointment. While placing reliance on Standing Order No.39/2014, it is stated that compassionate appointment will not be offered to the dependent of the deceased police personnel where there is already an earning member, i.e., Government servant (including public sector undertaking). In the instant case, the elder son (Harish) of the deceased Govt. employee is serving in Delhi Police. The applicant was informed accordingly via Memo dated 12.7.2016. Being aggrieved by the same, the applicant no.1 has preferred his appeal before the Commissioner of Police, Delhi on 7.11.2016 requesting therein for re-consideration of appointment of her son on compassionate grounds. The said request of applicant no.1 was examined but could not be acceded to.

3.1 They further stated that the Police Establishment Board thoroughly examines each and every case before taking the final decision. However, the applicant was provided Rs.2088299/- by the Department as pensionary benefits of deceased and pension Rs.5226/- + RIP per month. Besides, out of 04 daughters, 03 daughters have been got married and they are residing separately. One House 80 Sq. yard at Village

Daboda Khurd, Distt. Jhajjar (Haryana) is in the name of the applicant.

4. During the course of hearing, counsel for the applicants submitted that the respondents have rejected the case of the applicant no.2 for appointment on compassionate grounds without appreciating the fact that the elder son of deceased SI Ishwar Singh was residing separately and was not giving any financial help to the applicants as well as other family members and relation between applicant no.1's family and elder son's family were not cordial. Counsel further submitted that in such circumstances rejection of the candidature of the applicant no.2 for appointment on compassionate ground is not sustainable in the eyes of law. Counsel also submitted that financial condition of the applicants has worsened by passage of time for want of any financial help and that the applicant no.2 has already completed his education and is fit in all respect for the service on compassionate grounds.

4.1 Counsel further submitted that impugned order is highly illegal, arbitrary and discriminatory as they have given appointment on compassionate ground not on the basis of relevant factors such as financial conditions of the family which includes the total earning members, dependents, moveable property, immovable property etc, but on irrelevant consideration.

5. On the other hand, learned counsel for the respondents submitted that there is no denial of the fact by the applicants that elder son of deceased Govt. employee is working but they have only pleaded that the said elder son is not supporting them, which is not a reasonable ground to entertain the applicants' claim for consideration of appointment since Standing Order No.39/2014 specifically provides that compassionate appointment will not be offered to the dependent of the deceased police personnel where there is already an earning member, i.e., Government servant (including public sector undertaking). Counsel further emphasized that the case of the applicant had been considered strictly in the light of the provisions contained in Department of Personnel & Training (DoPT) O.M. dated 16.01.2013 read with SO No.39/2014.

6. Having heard learned counsel for the parties, it is observed that the cases of compassionate appointment in Delhi Police are processed and considered in accordance with the Standing Order No.39/2014 in conjunction with DoPT O.M. dated 16.01.2013. The DoPT O.M. has taken into consideration the rulings of Hon'ble Apex Court in the following cases:-

i) Auditor General of India & others v. G. Ananta Rajeswara Rao, (1994) 1 SCC 192,

- ii) Umesh Kumar Nagpal v. State of Haryana & others (supra),
- iii) Life Insurance Corporation of India v. Mrs. Asha Ramchandra Ambekar & others, JT 1994 (2) SC 183,
- iv) Himachal Road Transport Corporation v. Dinesh Kumar, JT 1996 (5) SC 319,
- v) Hindustan Aeronautics Limited v. Smt. A. Radhika Thirumalai, JT 1996 (9) SC 197; and
- vi) State of Haryana & others v. Rani Devi & others, JT 1996 (6) SC 646

The said DoPT O.M. is quite comprehensive. It deals with the issues of eligibility, exemptions, relaxations, determination of available vacancies, time limit for consideration of applications for compassionate appointment, etc. The Standing Order No.39/2014 of Delhi Police clearly states that the compassionate ground appointment will not be offered to a dependent of the deceased police personnel where there is already an earning member. In the present case, the elder son of the deceased is working in Delhi Police and hence, in terms of the Standing Order supra, the case of applicant No.2 for compassionate appointment could not have been considered. It is pertinent to note that compassionate appointment is considered only in respect of a family, who is in an indigent condition and deserves immediate assistance to save it from financial destitution. In the present case, besides the elder son of the deceased being employed in Delhi Police, applicant

No.1 is also getting family pension. Hence, it cannot be said that the family is indeed in indigent condition.

7. The aforesaid contention of the learned counsel for the applicant that her elder son, who is working as in Delhi Police, has separated from the family and is not extending any financial help to her, cannot be taken on its face value. For the sake of argument, if it is accepted, in that case, how can applicant No.1 be sure that applicant No.2, after getting job in Delhi Police through compassionate appointment, would not turn his Nelson's eye towards her and the other family members.

8. After going through the records, it is found that the case of applicant No.2 for compassionate appointment has been considered by the respondents in accordance with the DoPT O.M. dated 16.01.2013 and the Standing Order No.39/2014. 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 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."

Hence, this Tribunal does not find any illegality in the impugned communications of the respondents denying compassionate appointment to applicant No.2.

9. However, we would also like to point out that as per DOP&T OM NO.14014/02/2012-Estt.(D) dated 16.01.2013, if any of the claimants is not appointed on compassionate basis on their initial application, they can, if they so desire, again apply for compassionate appointment. If any such fresh application is moved by the applicant, the respondents shall consider the same in the next meeting of the Board of Officers in terms of the aforesaid OM and inform the concerned party about the decision taken by the Board of Officers within one month of the said meeting.

10. In the result, the present OA is disposed of accordingly. There shall be no order as to costs.

**(Nita Chowdhury)  
Member (A)**

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