

**Central Administrative Tribunal  
Principal Bench**

**OA No. 3198/2018**  
MA No. 3572/2018

New Delhi this the 16<sup>th</sup> day of September, 2019

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

Mohit Pal, aged 26 years,  
S/o late Shri Kamal Singh,  
R/o 3/12, Near Shiv Mandir,  
Village Mirzapur, Sector 12,  
Pratap Vihar, Ghaziabad-201009  
(UP)

- Applicant

(By Advocate: Mr. OP Agarwal)

VERSUS

1. Office of the Director Horticulture (HQ)  
East Delhi Municipal Corporation,  
419, Udyog Sadan, Patparganj Industrial Area,  
Delhi-110092
2. The Administrative Officer,  
East Delhi Municipal Corporation,  
Horticulture Department (HQ)  
East Delhi Municipal Corporation,  
419, Udyog Sadan, Patparganj Industrial Area,  
Delhi-110092
3. Commissioner,  
East Delhi Municipal Corporation,  
419, Udyog Sadan, Patparganj Industrial Area,  
Delhi-110092
4. Government NCT of Delhi,  
Through its Chief Secretary,  
Players Building, ITO, New Delhi - Respondents

(By Advocate: Mr. Manjeet Singh Reen)

**ORDER** (Oral)

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

- “i) The respondents may kindly be directed for considering the case of the applicant for appointment on the compassionate grounds in the post of Mali in place of his deceased father late Shri Kamal Singh, who was also working as a Mali and was permanent incumbent since 1990 in Corporation.
- ii) The respondents may kindly be directed to clear all the dues which are pending and not paid till date pertaining to the claim of deceased father of the applicant, who died on 08.12.2014;
- iii) The respondents may kindly be directed that when they issued the offer letter dated 22.09.2016 on contractual basis saying the same was issued on compassionate ground, it was clearly mentioned that the said appointment was made for one year against the “Vacant Post”, wherein contradictory conditions were mentioned which is directly putting negative impact on the scheme.
- iv) The respondents may kindly be directed to intimate the serial number, where the name of the applicant was registered in Register, if maintained by the respondent, as per the directions issued by the Hon’ble Supreme Court from time to time.
- v) The respondents may kindly be directed to intimate whether any person was appointed by superseding the candidature of the applicant, if so, necessary reasons and needs, if any arises may kindly be conveyed to the Hon’ble Tribunal especially when the applicant was in constant touch with the all the authorities, please clarify whether the applicant was superseded or otherwise.

- vi) The respondents may kindly be directed that the Respondent may be directed to bring all the records pertaining to the Compassionate Appointment.
- vii) The respondents may kindly be directed that whether they had any provision or orders to appoint a person on contractual basis, who is eligible for appointment on compassionate ground.
- vii) The respondents may kindly be directed to consider the case of the applicant for the appointment on compassionate ground and if it was already done against the vacancy, the notional date of seniority may kindly be considered from that date itself and also if possible the consequential benefits may also kindly be released.
- ix) to allow the OA with costs;
- x) to pass such other order(s) as this Hon'ble Tribunal deems fit and proper in facts and circumstances of the present case."

2. When it was noticed that there were multiple reliefs sought by the applicant in the single OA, counsel for the applicant has stated at Bar that he will not press the other reliefs, excepting his first relief which is for appointment on compassionate grounds. He therefore, has pressed only relief no.(i) above.

3. It is the case of the applicant that after the demise of his father on 08.12.2014, the applicant was facing with the financial crisis and consequently, he had made several applications for the appointment on compassionate basis but the same were not decided by

the respondents for want of experience certificate. The applicant has alleged that though he had already submitted the experience certificate issued on 25.05.2017 by M/s Neha Nursery to the respondents but they have concealed the fact that they have possessed the same in order to deny him appointment on compassionate grounds. Being aggrieved with this inaction of the respondents, the applicant has filed the present OA.

4. The respondents, while controverting the aforesaid averments of the applicant, have filed their CA in which they have submitted that on the basis of recommendation of the Screening Committee, Commissioner, EDMC, had approved the proposal to engage the applicant on contract basis under Welfare Measure Scheme of the MCD as per terms and conditions of the Scheme. They have contended that due to non-submission of the experience certificate of gardening by the applicant, his joining was kept in abeyance on the advice of the Law Department of the respondent. The respondents have contended that his case is still open for consideration of regular appointment on compassionate grounds if he fills up and submit the form provided for this purpose.

5. After hearing both the parties and perusing the records, it is noticed that when the counsel for the applicant was asked to show any proof of service of the experience certificate, he had miserably failed to provide any proof of service of the experience certificate to the respondents, though he has annexed an affidavit sworn by the owner of M/s Neha Nursery dated 05.03.2019 stating that the applicant had worked almost 3 years as a Mali in his nursery. It is not within the competent jurisdiction of the Tribunal to verify the documents for the purpose of appointment on compassionate grounds as 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.”

6 However, we would also like to point out that as per DoPT OM No.14014/02/2012-Estt.(D) dated 16.01.2013,

if the applicant is not appointed on compassionate basis on their initial application, the applicant can, if he so desires, 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 Compassionate Appointments Committee in terms of the aforesaid OM and inform the concerned party about the decision taken by the Compassionate Appointments Committee within one month of the said meeting.

7. In view of the above directions, the OA is dismissed. Pending MA is also dismissed. No order as to costs.

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

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