

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

OA No.126/2016

New Delhi this the 27th day of August, 2019

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

1. Smt. Nirmala Devi, Age 48 years,
W/o late Sh. Lakhat Singh,
R/o G-26, DMC, Shadipur,
New Delhi
2. Bhupender Singh, Age 25 years,
S/o late Sh. Lakhat Singh,
R/o G-26, DMC, Shadipur,
New Delhi

- Applicants

(By Advocate: Mr. RK Shukla)

VERSUS

1. Union of India
Through the Secretary,
Ministry of Agriculture,
Department of Dairy and Animal Husbandry,
Krishi Bhawan, New Delhi
2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar, New Delhi
3. The Deputy General Manager,
West Patel Nagar, Delhi Milk Scheme,
New Delhi

- Respondents

(By Advocate: Mr. SM Zulfiqar Alam)

ORDER (Oral)

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

“(a) Direct the respondents to consider the claim of the applicants for grant of compassionate appointment to the applicant No.1 in terms of Rule and regulations and the applicant No.2

may be ordered to be provided suitable job by the Delhi Milk Scheme.

(b) Any other relief which this Hon'ble Tribunal deem fit and proper may also be passed in the facts and circumstances of the case in favour of the applicant.”

2. The applicants have filed this OA to expedite the matter in respect of grant of compassionate appointment in terms of Compassionate Appointment Scheme issued by the Government of India, Ministry of Personnel from time to time. They have pleaded that the applicant no.1 is making representation continuously to consider her claim for grant of compassionate appointment to her son, i.e., applicant no.2 but the respondents have failed to give any response to her representations.

3. The applicants have pleaded that they have no movable and immovable property and the financial conditions of the family members of the deceased employee is very pathetic in view of death of late employee, who had left behind him one widow, two daughters and two sons. They have further pleaded that there is no bread earner in their family and two sons are unemployed and unmarried. They have also submitted they had taken loan of Rs.12, 00,000/- for the treatment of illness of the husband of the applicant no.1 before his

death and had further taken loan of Rs.2,40,000/- for the marriage of her elder daughter. Hence, the applicant no.1 is not having sufficient means to maintain her younger daughter who is residing with her. The applicant no.1 has thus prayed for appointment of her son on compassionate basis.

4. In reply to the above, the respondents have filed their reply in which they have that application of applicant no.1 regarding appointment on compassionate grounds of her son, i.e. applicant no.2 was forwarded by the then Hon'ble Minister of Housing and Urban Poverty Alleviation vide his letter dated 29.01.2013 and the Hon'ble Minister had informed that the Managing Committee of DM in its 174th meeting held on 08.05.2007 observed as under:-

“There is no need to fill up vacant direct recruitment post on compassionate grounds in view of fact that no recruitment against direct recruitment quota is being made at present.”

The respondents have contended that another letter dated 09.05.2013 was received from Ministry of Agriculture, Deptt. of AHD & Fisheries along with a letter dated 05.03.2013 forwarded by Hon'ble Minister of Housing and Urban Poverty Alleviation with representation dated 05.03.2019 of the applicant

requesting for giving appointment on compassionate ground of his son and once again Hon'ble Minister was informed about the decision of the Managing Committee of DMS taken in its 174th meeting held on 08.05.2007.

5. The respondents, in reply to the averments of the applicant no.1 that they are facing financial crisis, have submitted that Government tried to do best on its part to help the applicant's financial condition and a total amount of Rs.13,54,795/- was given to the applicant after the death of the deceased employee under the heads DCRG, CGEIS, GPF and leave encashment. They have also submitted that the family pension has been granted to the wife of the deceased i.e. Smt. Nirmla Devi @Rs.5735/- plus other allowances as per rules. The respondents have thus prayed that the present OA is liable to be dismissed.

6. After hearing both the parties and perusing the record, it is noticed that the Management Committee of DMS in its 174th meeting held on 08.05.2007 has decided that there is no need to fill up vacant direct recruitment post on compassionate grounds in view of fact that no recruitment against direct recruitment quota is being made at present. Hence, once the respondents have

decided not to fill up the direct recruitment posts as a policy matter, it is not open to the Tribunal to direct them to fill up some vacant posts on compassionate basis. Counsel for the respondents states during argument that Management Committee of DMS has decided not to recruit any more persons in this Corporation and hence their action in not taking up request for compassionate is only in furtherance with the said management decision and there is nothing illegal in the same. In view of the peculiar circumstances, i.e., the decision of the respondents not to fill up the vacant vacancies, there is no hostile discrimination against the applicant of this OA. Accordingly, the OA is dismissed. No costs.

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

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