

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

O.A. NO.4107 of 2017

Orders reserved on: 08.08.2019

Orders pronounced on : 14.08.2019

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

Manju Yadav (Compassionate Appointment)
Aged about 39 years,
W/o Late Sh. Sanjay Kumar,
R/o H-29, VDA Flats,
Ravindrapuri Ext., Varanasi-221005
Presently at Flat No. 806, Block-A,
Antariksh Nature Apartment,
Sec-52, Noida

....Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Kendriya Vidyalaya Sanathan
Through its Commissioner,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016

2. The Joint Commissioner (Admn.),
Kendriya Vidyalaya Sangathan
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016

.....Respondents

(By Advocate : Shri U.N. Singh)

ORDER

By filing this case, the applicant is seeking the following
reliefs:-

- i) To quash and set aside the impugned order dated 16.12.2016 (A-1) & 25.05.2017 (A-1A) and direct the

respondents to consider the case of applicant for appointment as LDC or against any Group 'C' Post on compassionate grounds without any delay.

- ii) To declare the action of the respondents in not appointing the applicant as LDC/UDC/Assistant/Accountant etc. on the basis of her total points as per Circular No. 3736/2004-SPB-I/C dated 20.01.2010 as illegal and issue appropriate directions for calculating 5% vacancies of compassionate appointment quota on the basis of total Group 'C' vacancies and not only on the basis of vacancies of LDC & appoint the applicant against Group 'C' Post on compassionate grounds from the date of appointment of other similarly placed persons with all consequential benefits.
- iii) To allow the OA with cost
- iv) 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 brief, the applicant is the wife of deceased Govt. employee – Sanjay Kumar, who dies on 3.3.2012. The grievance of the applicant in this case is that although she was appointed to the post of Sub Staff, i.e., Group 'D' post upon consideration of her candidature for grant of appointment under Compassionate Appointment Scheme, but she, being possessing higher qualification, i.e., B.Sc. and MBA, was to be appointed to the post of LCD, i.e., Group 'C' post. However, she submitted her representations in this regard but the same were rejected by the respondents on the grounds that she was awarded 72 points whereas those who were appointed on Group 'C' posts on compassionate grounds were awarded much higher marks than the applicant. Being

aggrieved by the aforesaid decision of the respondents, the applicant has filed this OA seeking the reliefs as quoted above.

3. Counsel for the applicant during the course of hearing submitted that the applicant was not awarded marks in true letter and spirit of the Scheme of Compassionate appointment. According to him, the applicant ought to have been awarded 93 marks instead of 72 marks as per the chart mentioned in the OA, the same is reproduced herein below:-

Sl.No.	Relevant Details	Maximum Points	Applicant's Points
1.	Family Pension	20	14
2.	Terminal benefits	10	4
3.	Monthly income of earning member	5	5
4.	Movable/Immovable Property	10	10
5.	Number of Dependants	15	15 (5 dependents)
6.	Number of unmarried daughters	15	10 (2 Daughters)
7.	Number of Minor Children	15	10
8.	Left Over service	10	10
9.	Additional Points for Wife	15	15
Total Points		93	

If the applicant was awarded the points as mentioned above, she would have definitely come within the list of those candidates, who were appointed to Group ‘C’ post under Compassionate Appointment Scheme. As such the respondents be directed to reconsider her case for grant of appointment to the post of Group ‘C’.

4. On the other hand, counsel for the respondents disputed the aforesaid contention of the applicant by referring to their counter affidavit and submitted that the application of the applicant was received through Deputy Commissioner, Regional Office, Chandigarh and same was examined/evaluated based on various attributes given in letter No.37-36/2004-SPB-1/C dated 20.01.2010 issued by the Ministry of Communication and IT, Department of Post, which has been adopted by the Kendriya Vidyalaya Sangathan. The applicant was allotted merit points as under:-

Sl.No.	Relevant Details	Maximum Points	Applicant's Points
1.	Family Pension	20	14
2.	Terminal benefits	10	0
3.	Monthly income of earning member	5	5
4.	Movable/Immovable Property	10	10
5.	Number of unmarried daughters	15	10
6.	Number of Minor Children	15	10
7.	Left Over service	10	8
8.	Additional Points for Wife	15	15
Total Points		72	

4.1 Counsel further submitted that no weightage for higher qualification is prescribed in the Scheme of Compassionate Appointment. Counsel further emphasized that as per the Scheme, there is a ceiling of 5% quota for direct recruitment vacancies for such compassionate appointment in lowest rank of Group 'C' and 'C' cadres. The lowest rank of Group 'C' is

LDC and lowest rank in Group 'D' is Sub Staff. Accordingly, the following vacancies were earmarked for appointment on compassionate ground during the year 2013-14:-

Name of the post	Total vacancies earmarked for compassionate ground
LDC	08
Sub Staff	15

4.2 Counsel further contended that allocation of merits points was done strictly in accordance with the provisions of Compassionate Appointment Scheme as adopted by the respondents and as such the claim of the applicant that she ought to have been awarded 93 merit points is baseless. Only those candidates having regard to the vacancies positions for such appointments, only those who were in higher merits were given appointments to the posts of LDC and those who were in lower in merits were given appointments to the posts of Sub Staff.

5. Counsel for the applicant submitted that applicant was wrongly awarded 0 points for the terminal benefits as the applicant received terminal benefits to the tune of Rs.2,90,042/- only whereas Rs.4,66,686/- were taken into consideration while awarding the points for the terminal benefits and as per the Scheme of awarding the points in this head, the applicant ought to have been awarded at least 4 points but the respondents have awarded only 0 point by taking into consideration the amount of Rs.4,66,686/- which

was sanctioned towards grant of Gratuity whereas in actuality the amount of Rs.2,90,042/- only was released to the applicant.

6. In response to the aforesaid averment of the learned counsel for the applicant, counsel for the respondents submitted that entire amount of Rs.4,66,686/- was required to be considered while awarding the point under the head of 'terminal benefits' and as per the scheme, only 0 point is to be awarded towards this head having regard to the amount sanctioned to the applicant. Certain deductions were required to be made, which had been carried out and then only they released the remaining amount of gratuity to the applicant but the total amount does not stand reduced on the account of deductions made due to outstanding dues of the applicant. As such there is no illegality in the act of the respondents while awarding 0 points for the head of 'terminal benefits'.

7. So far as the contention of learned counsel for the applicant that no points were awarded to her under the head of number of dependents whereas counsel for the respondents points out that points were awarded under this head for (unmarried daughters) to the applicant, which the applicant has not disputed and also the fact of awarding of points regarding number of minor children has also not disputed by the applicant and is clearly stated in para 4 above.

8. Having heard learned counsel for the parties and carefully perused the pleadings available on the records, this Court accepts the aforesaid contentions of the respondents, as they have in clear terms demonstrated their stands while awarding the points in the case of the applicant and as such this Court does not find any illegality in awarding the 72 points to the applicant's case.

9. It is not within the domain of the Tribunal to give the points on the basis of the details provided by the applicants and it is the prerogative of the respondents to assess the eligibility of the applicants and accordingly award the points on the basis of the details provided by them. 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."

10. It is not the case of the applicant that any person, who was awarded less mark than the applicant, was given appointment to the post LDC under the scheme of

Compassionate appointment. Further marks have been correctly awarded in all the criterion fixed for consideration of a claim of compassionate appointment.

11. In view of the above facts and circumstances of the case and for the foregoing reasons, this Court does not find any merit in the claim of the applicant as projected in the OA and as such the present OA is dismissed being devoid of merit. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

/ravi/