

**Central Administrative Tribunal
Principal Bench**

OA No. 1083/2018

Orders Reserved on: 26.08.2019.

Pronounced on: 30.08.2019.

Hon'ble Mr. Pradeep Kumar, Member (A)

Himanshu, (Compassionate Appointment)
Aged about 20 years,
S/o late Sh. Mukesh Kumar,
R/o H.No.523-B, VPO Nangloi,
Delhi-110041.

-Applicant

(By Advocate Shri M.K. Bhardwaj)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
New Secretariat, I.P. Estate,
New Delhi.
2. The Secretary (Services),
Govt. of NCT of Delhi,
New Secretariat, I.P. Estate,
New Delhi.
3. The Director of Education,
Directorate of Education,
Govt. of NCT of Delhi,
Old Secretariat,
New Delhi.
4. The Medical Superintendent,
Deen Dayal Upadhyay Hospital,
Hari Nagar,
New Delhi.

-Respondents

(By Advocate Ms. Deepika)

ORDER

Applicant's father was serving Directorate of Health Services, Government of National Capital Territory of Delhi (GNCTD) as a dresser and he unfortunately died in harness on 21.12.2014, leaving behind his wife and minor children, including the instant applicant. The applicant's mother requested the respondents for considering applicant's name for compassionate ground appointment. This request was considered and the respondents vide their letter dated 02.09.2016 advised the applicant that the request has been agreed to, subject to verification of documents, including educational qualification.

2. Thereafter vide respondents' letter dated 16.11.2016 applicant was advised to appear in person before the Deputy Secretary (Services) along with original documents of his educational qualification on 18.11.2016.

3. It was found at this stage that while the applicant has indicated his educational qualification to be 9th passed, he was actually 7th passed only and was studying in 10th class in Open School. He subsequently failed in this 10th class in all subjects.

The respondents issued a letter dated 14.03.2017, which reads as follows:

“Kindly refer to letter No.DE.1(15)(58)/E-1/2012/10063-64 dated 04/10/2016 on the subject cited above. In this regard, I am directed to say that the matter has been examined in this department and the candidate has also been accorded personal hearing by the undersigned. Further, providing of false information by the candidate has been viewed seriously by the Competent Authority and decided to cancel the nomination of Sh. Himanshu S/o Late Sh. Mukesh Kumar-Ex. Dresser of Dte. of Health Services, for the post of Peon on compassionate grounds in your department. This is for information and necessary action in the matter.”

Thereafter another letter was issued on 04.05.2017 which reads as under:

“Reference to Memorandum No. F DE.1(15)(03)/E-1/2015/8497-99 Dated 02/09/2016 issued by the Directorate of Education and subsequently letter No.F.16(103)/2015/S-II/1121-1122 dated 14/03/2017 issued by the Services Department, Govt. of NCT of Delhi, vide which your nomination for the post of Group-‘D’ Peon on compassionate ground in Directorate of Education has been cancelled vide order No.F.16(103)/2015/S-II/1121-1122 dated 14/03/2017.

Therefore, I am directed to inform you that competent authority has decided to withdraw the Memorandum (Offer of Post) issued by this directorate vide F DE.1(15)(03)/E-1/2015/8497-99 Dated 02/09/2016 and cancelled the said Memorandum with immediate effect.”

The applicant made a representation for review. However, the same was rejected vide letter dated 29.05.2017.

4. The rejection of the request for compassionate ground appointment has been impugned in this OA and applicant has sought quashing of the letters dated 14.03.2017, 04.05.2017 and 29.05.2017.

The applicant pleads that in the aftermaths of death of his father he was mentally disturbed and in the application

form, which was filled up by someone, it was indicated as 9th passed in the educational qualification column, since at that time he was undergoing 10th class of education in the Open School. Accordingly, someone who filled up the application form took him to be 9th passed and it was indicated. This was an inadvertent mistake for which the rejection of compassionate grounds appointment request is too harsh.

5. In this context, the applicant pleaded that he was actually 7th passed at the time when the application was made. Subsequently he had actually passed class 10th from Open School in the year 2017.

6. The respondents opposed the OA. It was pleaded that the initial application was filled up in English wherein in the educational qualification column it was clearly indicated that he is 9th class passed. The minimum educational qualification required was 8th class passed and accordingly the application was considered and appointment was offered.

6.1 However, at verification stage, it came out that he was actually 7th class passed only and in the 10th class, which he was undergoing education from the Open School he had actually failed in all subjects. Therefore, at the material point of time he did not possess the required qualification of 8th class passed.

6.2 Applicant's plea that in the application he had inadvertently indicated his educational qualification to be 9th class passed cannot be accepted, as the entire form is filled up in English and the applicant has also put up his signature in English on the same.

6.3 The respondents pleaded that the instant case is not of erroneous information, which was inadvertently given but of a material suppression of facts and presenting false picture to attain eligibility. The respondents cannot be expected to appoint somebody with such predisposition.

7. The matter has been heard at length. Shri M.K. Bhardwaj, learned counsel represented the applicant's case and Ms. Deepika, learned counsel represented the respondents.

8. Facts of this case are not in doubt. The initial application filled up by the applicant was also seen. It is noted that the application was filled up in English and in the educational qualification column he has clearly indicated himself to be 9th class passed without any ambiguity. The application was signed by him and that too in English. When this is the situation, the plea by the applicant that it was filled up by somebody else and he was not aware of it, is not acceptable.

8.1 It is true that compassionate ground appointment is a benevolent consideration to be extended by the respondents and this was extended also in the instant case on the assumption that the facts given in the application are *prima facie* true. When the facts in respect of the educational qualification were found to be untrue and it was seen that he was only 7th class passed when 8th class passed was the minimum requirement, the action on the part of the respondents to reject the offer of appointment given earlier, cannot be faulted.

8.2 The fact that the applicant has passed class 10th subsequently in 2017 is of no help to him for instant compassionate ground request, as at the material point of time he not only suppressed the information but gave false information about his educational qualification.

9. In view of the foregoing, the pleas of the applicant are not finding acceptability. The OA is without merit and is dismissed. No costs.

(Pradeep Kumar)
Member (A)

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