

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 504/2003

This the 11th day of September, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Dharam Singh
S/o Late Sh. Dhan Pal Singh
R/o Vill. & Post Ghitora, Distt. Bagpat, U.P.

(By Advocate: Sh. U.Srivastava)

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Versus

Govt. of NCT of Delhi through

1. The Chief Secretary,
Govt. of NCT Delhi,
Delhi Secretariat, I.P.Estate,
New Delhi.
2. The Dy. Secretary (Services),
GNCT Delhi, Services Department (II),
Delhi Secretariat 5th level, A-Wing,
I.P.Estate, New Delhi.
3. The Supdt. (Services-II),
GNCT Delhi, Services Department (II),
Delhi Secretariat 5th level, A-Wing,
I.P.Estate, New Delhi.

(By Advocate: Sh. Vijay Pandita)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

The case of the applicant is that his father who was a Govt. servant has expired while in harness on 12.1.98. Immediately thereafter the applicant applied for job on compassionate grounds vide application dated 22.6.98 and it was processed vide Annexure A-1 filed with the rejoinder and the name of the applicant was kept in the list meant for appointment on compassionate grounds. Ultimately the applicant was informed vide letter Annexure A-3 dated 7.10.2002 following the decision of the Hon'ble Supreme Court and instructions of Govt. of India as contained in DOPT OM dated 9.10.98, the quota for compassionate appointment has been restricted to 5% of vacancies under the direct recruitment quota. Therfore, the Screening Committee after

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carefully considering the request of the applicant on compassionate grounds for which meeting was held on 12.7.2002 the Committee could not recommend the case of the applicant for appointment on compassionate grounds due to shortage of vacancies. It is this letter which is being challenged by the applicant.

2. Applicant submits that since the predecessor of the applicant has expired some time in January 1998 so his case should have been considered as per the instructions in force at that time when applicant had made a request for appointment on compassionate grounds. Merely because respondents have kept the applicant on waiting list and did not consider his case when the applicant made a request for appointment on compassionate grounds that does not entitle the respondents to reject the application of the applicant on the instructions issued subsequently by the DOPT.

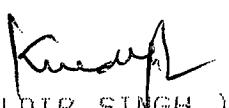
3. To support his contention counsel for applicant has referred to a judgment reported in Delhi Law Times 102 (2003) 414 in case titled as Jagwati Devi vs. Union of India wherein Delhi High Court has observed that policy on compassionate appointment also came into force subsequent to the application for appointment on compassionate grounds as he applied way back in 1997 and respondents kept her application pending and failed to take any action for all these years. Petitioner's case deserves consideration on its own merit. Respondents deprived the right of consideration in violation of rights rejecting her case on strength of policy in question becomes unsustainable and to be set aside. Respondents directed to consider petitioner's case on its own merits uninfluenced by the policy directed in question and pass appropriate orders.

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4. Though the court had also observed that they do not suggest that respondents lack the part in such policy of that they could not apply it to the appropriate cases while they were free to do so. They could not have rejected it on that basis. Her case deserves consideration on its own merits because of the respondents' inaction that it remained pending beyond one year and for so long. I further observe that respondents have dehors the rules. Respondents have wrongly rejected the case of the applicant on the basis of the new policy. Similar is the situation here. Since the applicant's predecessor has expired in January 1998, applicants have made an application for appointment immediately thereafter which was taken note of by the respondents, as per their letter annexed with the rejoinder dated 24.7.98 and 22.6.98. So the crucial date of consideration for appointment was the date when the applicant made an application for appointment on compassionate grounds and these instructions dated 9.10.98 came into force subsequently. So the case of the applicant should have been considered on its own merits uninfluenced by the policy which came in force later.

5. So following the law laid down by the Hon'ble High Court the impugned order dated 7.10.2002 which has rejected the application solely on the ground of ceiling fixed for the vacancies available for the quota for appointment on compassionate grounds cannot be sustained and the same has to be quashed. Accordingly, I quash the order dated 7.10.2002 which is based only on a subsequent policy, i.e., 9.10.98. OA is allowed. Respondents are directed to consider the case of the applicant on its own merits uninfluenced by the policy of 9.10.98. This exercise shall be completed within a period of 3 months from the date of receipt of a copy of this order.


(KULDIP SINGH)
Member (J)

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