

Central Administrative Tribunal
Principal Bench

O.A.No.807/2003

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 2nd day of May, 2003

Susheel Kumar
s/o Late Shri Ram Krishan Chaudhary
R/o H.No.56, Hastsaal Village
New Delhi - 110 059. ... Applicant

(By Advocate: Sh. Mahender Singh)

Vs.

1. The State of Delhi (Govt. of NCT of Delhi)
through its Secretary
Service-II Department, Delhi Secretariat
Level - 5, A-Wing, ITO, New Delhi-2.
2. Director of Education
Directorate of Education
Govt. of NCT of Delhi
Old Secretariat
Delhi - 110 054. ... Respondents

O R D E R

By Shri Shanker Raju, M(J):

Applicant impugns respondents' orders dated 24.9.2001 and 7.10.2002 whereby the request of applicant for compassionate appointment has been turned down. He has sought quashment of these orders with direction to accord compassionate appointment to him

2. Applicant belongs to OBC category and is a son of late Shri Ram Krishan Chaudhary, who was working as Teacher with respondents, on the sudden demise of applicant's father on 25.7.1998, a request has been made to respondents to accord him compassionate appointment, which on consideration, as per the liabilities and assets of the family, was denied. On review also the request was turned down.

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3. Applicant filed a petition before High Court vide Diary No.20012, dated 2.8.2002 and as the objections were not removed, he filed the present OA before this Court.

4. By referring to the Scheme for compassionate appointment, issued by DoPT's OM dated 9.10.1998, it is contended that claim of the applicant for compassionate appointment against Group 'C' post under 5% quota meant for direct recruitment is tenable as Assistant Teacher (Hindi) as well as Assistant Teacher (Primary) are Group 'C' posts. Moreover, it is stated that the grounds for denial of compassionate appointment for shortage of vacancies is arbitrary, unconstitutional, unjustified, nullity in law, and violative of Articles 14, 16, 19 and 21 of the Constitution of India.

5. Reliance has been placed on a decision of the Apex Court in Smt. Phool Wati v. Union of India & Ors., AIR 1991 SC 469.

6. Heard the matter on admission. I have carefully perused the pleadings on record. Family of the deceased, consists of widow and three sons, out of three sons, two sons of the deceased Government servant were married and are in employment, and are living separately. An amount of Rs.8,80,118/- was paid as terminal benefits to the deceased family. The family of the deceased also owns a residential house.

7. Respondents, having regard to the assets and liabilities and various factors laid down under guide-lines *ibid*, considered the case of applicant and as Screening Committee did not recommend the case of applicant for appointment, the case of applicant was rejected. On review, as the compassionate appointment was restricted to 5% vacancies under the direct recruitment quota and as per DoPT's OM dated 12.6.2001, waiting list for compassionate appointment is valid for a period of one year, on account of shortage of vacancies under the aforesaid quota, the case of applicant was not recommended.

8. It is settled by the Apex Court in various pronouncements that compassionate appointment cannot be claimed as a right but right of consideration is permissible. Having considered meticulously in the light of the DoPT's OM of 1998 and with regard to the liabilities and assets of the family, the case of applicant has not been found deserving, the same was not recommended. Compassionate appointment cannot be claimed as a right and is restricted to only 5% of the quota under direct recruitment in Group 'C' and 'D' posts. As per the latest instructions *ibid*, waiting list is to be prepared and is valid for one year. Indefinitely, the name of the persons cannot be placed in the waiting list.

9. Keeping in view of the assets of the family^h and liabilities, deceased family was not in urgent dire need of financial assistance, and is also

not indigent as compared to the other deserving cases, respondents have rightly rejected the case of applicant for compassionate appointment.

10. Apex Court in H.S.E.B. v. Krishna Devi, JT 2002(3) SC 485 held that employment on compassionate ground is given purely on humanitarian consideration, and cannot be claimed as a matter of right, and the object is to provide immediate financial help to the family of the deceased which cannot be made in absence of rules and instructions.

11. Moreover, in Life Insurance Corporation of India v. Mrs. Asha Ramchandran Ambedkar, JT 1994(2) SC 183, the Apex Court observed that "relaxation to be availed if none of the family members are in gainfully employed, Tribunal should not to have conferred benediction impelled by sympathetic consideration disregardful of law.

12. Having regard to the aforesaid decision, I do not find any infirmity in the order passed by respondents. Accordingly, the OA is dismissed at the admission stage itself. No costs.

S. Raju
(Shanker Raju)
Member(J)

/rao/