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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2009/2003

New Delhi this the 20th day of May, 2004

Hon'ble Shri S.A.Singh, Member (A)

Shri Rakesh Rathi, aged 30 years,
S/o Late Shri Raghubir,
R/o RZ-3/350, West Sagarpur,
Jagdamba Vihar, New Delhi-110045.
(For Group 'D' Appointment)

.....Applicant

(By Advocate Shri S.P.Chadha)

VERSUS

The Secretary, Govt. of India,
Ministry of Information Technology,
Electronics Niketan,
6-CGO Complex, New Delhi-110003.

.....Respondents

(By advocate Shri R.N.Singh)

O R D E R

The applicant claims to be the son of late Shri Raghubir Singh, who was Head Chowkidar, MIT, who expired on 16.12.2001 in harness. The applicant has submitted an application for compassionate appointment, which was rejected by the respondents on 20.3.2000.

2. The applicant had earlier filed OA 615/2003, which was disposed of with direction to the respondents to consider his representation and pass a detailed and speaking order within a period of three months from the date of receipt of a copy of the order.

3. The respondents have issued order dated 2.7.2003 (Annexure A-1) giving detailed reasons for rejecting the request of the applicant for compassionate appointment.

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4. The applicant impugned the respondents' order and prayed that the respondents be directed to reconsider his case for appointment on compassionate ground. The main ground taken by the respondents for rejecting the case of the applicant is that the father of the applicant, i.e., deceased government servant had not included any person as 'dependent' in the prescribed form of details of family as required under the Rules. Hence as per the rules, case of the applicant could not be considered. It has also been mentioned that the deceased employee had even made a complaint to the Police against his sons that they were harassing and even threatening his life and he had been living separately.

5. The applicant claimed that he was living with his father as is apparent from the copy of the Ration Card, which is annexed with the OA at annexure A/V. As far as the question of non-inclusion of names of the dependent in the required form is concerned, it has resulted because the father was an illiterate person and had to rely upon the others for filling up the forms. His signature was taken on a blank form and the details were filled up. He made a complaint to the Deputy Secretary but no action was taken on the complaint. Moreover, Respondents themselves have accepted that he was dependent because ~~the~~ ^{his} part of gratuity has been paid to ~~them~~ ^{him} as his share, equally divided with other dependents.

6. The applicant claims hostile discrimination as the respondents have appointed within one month of his application, the son of Deputy Director, whose details had

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been filed by the respondents. From the details, it is apparent that though the person appointed against compassionate appointment has a monthly income of about Rs.20,000/- besides ~~having~~ owning a house measuring 256 sqm. The total assets thus are substantial, whereas the applicant is a poor person doing some casual type of electrical work from a single room and has been denied the appointment.

7. The applicant has further pointed out that in paragraph (c) of the Scheme for appointment on compassionate grounds, poverty line is to be used as guidance for identifying deserving cases. According to the said condition, a family of five persons having income below Rs.1,767.00 per month, are below the poverty line. Therefore, the applicant argued that how can a case whose monthly income exceeds more than Rs.20,000/- comes within those guidelines and be considered for appointment. The appointment has to be made through a committee and this has not been done and hence ineligible persons are appointed against compassionate appointment quota, whereas deserving cases like applicant have been ignored. The applicant is 25 years of age and is not even entitled to family pension and even the Provident Fund he received was meagre as it was adjusted against House Building Advance taken by the deceased employee.

8. Respondents have strongly contested the averments of the applicant and pleaded that the applicant is asking the Tribunal to carry out a roving inquiry for determining ~~any~~ who is deserving candidate for appointment. This is not part of

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judicial review. The applicant has to be assessed on his own merits without comparison with others, as situations are not similar.

9. The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of the Government servant dying in harness or who has retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, and to relieve the family of the Government servant concerned from financial destitution and to help it to get over the emergency.

10. The issue, therefore, involves around who is dependent family member, who is to be considered for this appointment and whether the condition of the family is such that they need assistance through a compassionate appointment. In the present case, the deceased government servant has not indicated that he had any dependents therefore on this ground alone, applicant is not eligible for consideration.

11. The applicant has alleged that he has been rejected on malafide ground but has not been able to show any person who has acted with malafide intention and stopped his appointment. He has only impleaded Government of India and it cannot be said that the government of India in totality is acting with malafide intention against the applicant.

12. The contention of the applicant that ^Lblank forms ^{have} been got signed by one Section Officer is also not sustainable.

[Handwritten signature]

The applicant has made false averments because the application for inclusion of the names of the dependents had been submitted to Deputy Secretary, but according to the respondents, no officer of this designation ever existed in the Department.

13. It is not a matter of right of the applicant for compassionate appointment. It is only given in cases of extreme hardship and as such there is substantial grounds in rejecting his case as he is not in such a condition.

14. It is not for the applicant to indicate, who is eligible for appointment. It has to be assessed in a relative manner and taking the rank of the deceased government employee into account if this is not done, then no person of group 'A' service would be eligible for appointment on compassionate grounds. Impugned order passed by the respondents as per direction of the Tribunal is a speaking and exhaustive order. The reasons given for consideration of the three persons, who have been appointed and the details have been given by the respondents, and it should be clear that they were all cases of extreme hardship.

15. The applicant has given a wrong averment by showing that one of the cases was a government servant, which is not true. Finally, the respondents pleaded that his case was not sustainable because service record has not been challenged and as per service record no dependent had been indicated. In support of his case, respondents relied upon the case of

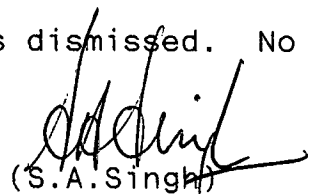
Veer Mohd. Vs. Municipal Corporation of Delhi 1995 (2002) Delhi Law Times 663 (DB) it has been indicated that the appointment on compassionate ground is made only by way of an exception and cannot be claimed as a matter of right.

16. The applicant in the rejoinder stated that he was running an electric shop and doing casual electric work and that as per the Scheme for giving compassionate appointment preference was to be given to group 'D' staff.

17. After hearing both the learned counsel for the parties and having gone through the record, it clear that the deceased government servant has changed the details of the family. The old nomination form dated 12.2.75 did not show the name of the applicant. However, in the form filled up on 12.4.2001, no family member has been shown as dependent, though the name of the son has been shown in the death-cum-gratuity form. The objective of compassionate appointment scheme is to relieve family from financial destitution and help it to get over emergency. In the present case, the deceased government servant has left behind no dependent who required immediate help as the applicant is more than 25 years of age, married and maintaining his family with the income which he is getting from the electric shop. It has been held ~~and~~^{as} as referred to above that compassionate appointment is not a matter of right but only as a means to provide financial assistance to the family to get over the emergency. The applicant has not been able to show that any such situation exists and in fact through the ~~the~~^{OA} he is trying

for appointment in government service using the compassionate appointments route.

18. In the result and for the reasons given above, the OA has no merit and the same is dismissed. No costs.


(S.A. Singh)
Member(A)

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