

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2213/2003

New Delhi, this the 28th day of April, 2004

Hon'ble Shri S.K. Naik, Member(^)

1. Smt. Phoolwati, w/o late Shri Balwant Singh
2. Satish Kumar, s/o -do
Vil. Madana Khurd, PO Madana Kalan
Dt. Jhajjar, Haryana .. Applicants
(Shri L.C. Rajput, Advocate)

versus

Govt. of NCT of Delhi, through
1. Commissioner of Police
Police Hqrs. IP Estate, New Delhi
2. Joint Commissioner of Police
Police Hqrs. IP Estate, New Delhi .. Respondents

(Shri Ajesh Luthra, Advocate)

ORDER

Applicants have assailed the orders dated 3.3.2003 and 27.5.2003 by which their request for grant of compassionate appointment to applicant No.2 has been rejected.

2. The relevant facts leading to the present application, according to the applicants, are that Shri Balwant Singh, husband of applicant No.1, while working as Head Constable in Delhi Police died in harness on 18.10.2001. Applicant No.1 made a request in November, 2001 to the respondents to appoint her son (applicant No.2) on compassionate ground on a suitable post, pursuant to which they were directed to complete certain formalities. Consequently, DCP-IIInd Bn. DAP to carry out physical measurement of applicant No.2. This was done on 13.12.2001 and he was found fit to be appointed as Constable (Driver). However, by letter dated 3.3.2003 applicants were informed that request of applicant No.1 has been considered and rejected. They submitted another representation on 29.4.2003 which was also rejected vide

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letter dated 27.5.2003. Hence this application- seeking quashing of the impugned orders with a direction to the respondents to consider appointment of applicant No.2 on a suitable post on compassionate ground.

3. Learned counsel for the applicants has contended that the request of applicant No.1 to offer appointment to her son on compassionate ground has been rejected by the impugned orders without proper consideration of the indigent circumstances of the deceased family. While the respondents have relied upon the judgements of the Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana JI 1994(3) SC 525 and LIC of India Vs. Mrs. A.R.Ambekar JI 1994(2) SC 183, applicant's counsel has relied upon the judgement of the Supreme Court in Balbir Kaur & Anr. Vs. Steel Authority of India Ltd. IV(2000)SLT 706. According to him, respondents could not have taken into consideration the retirement benefits to arrive at the conclusion that the family of the deceased was not in indigent circumstances. He has therefore submitted that the respondents be directed to consider applicant No.2 for compassionate appointment on a suitable post.

4. Respondents have contested the case. Placing reliance on the judgements of the Supreme Court in Umesh Kumar Nagpal(supra) and LIC of India (supra), they contend that Tribunal cannot direct compassionate appointment on the ground of sympathy disregarding the instructions/law on the subject. They have further stated that the family of the deceased is not indigent circumstances warranting compassionate appointment inasmuch the entire amount of pensionary benefits have been given to the applicants and family pension plus DA

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is being given to the widow of the deceased. That the applicant No.1 has a agricultural land in her name from which she is getting Rs.1500/- per month. According to the respondents, the Screening Committee headed by the Commissioner of Police, Delhi after taking into consideration the relevant rules/instructions on the subject and the financial condition of the deceased's family, liabilities and all other factors such as the presence of earning member, size of the family, age of the children and essential needs of the family, rejected the request in the meeting held on 21.2.2003 being less deserving compared to other cases and the applicants were informed accordingly. Their request dated 28.4.2003 was reconsidered again and replied to reiterating the earlier stand. In view of this position, the OA be dismissed, respondents would contend.

5. I have heard the learned counsel for the parties and considered the pleadings.

6. Law by now has been settled that the Tribunal cannot pass any order directing any authority to appoint the applicant to a post on compassionate ground. At the most the applicant can claim consideration as per the Scheme for such appointment. Respondents in the case in hand have categorically stated that they have enquired into the family circumstances left behind by the deceased employee. In that they have found that one son of the deceased is employed in Haryana Roadways Workshop and the daughter is already married. Another son, aged 34 years, is in agricultural operation and the applicant herself owns a small patch of land which provides her an income of Rs.1500/-.

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7. During the course of the arguments, learned counsel for the respondents has drawn my attention to the fact that the late Shri Balwan Singh, Head Constable, at the time of his death was 59 years and two months and he would have retired from service in the normal course 10 months thereafter. He contends that the deceased was aware of his retirement, it would be just fair to expect that he would have catered for proposed retirement liabilities. The son for whom applicant No.1 is seeking employment was 30 years at the time of the death of Shri Balwan Singh and remained unemployed until then. Respondent-department has a Screening Committee to consider all the cases of compassionate ground appointment which is headed by the Police Commissioner himself. The number of compassionate appointments being restricted to only 5% of the direct recruitment quota for a particular year, respondent-department can only offer appointment to more deserving cases. In the case in hand, it has been categorically stated by the respondents that the case of the applicants was duly considered and found that the same was not most deserving than others.

8. I find that the case of Balwan Singh (supra) cited by the applicant is distinguishable and would not render any assistance to the applicant.

9. In the result, I find no merit in the present OA and the same is accordingly dismissed.

Naik
(S.K. Naik)
Member(A)

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