

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) No.1104/2008**

% Date of Decision: 13th February, 2008

MAMTA Petitioner
! Through: Mr. Y.S. Chauhan, Advocate

versus

\$ UNION OF INDIA & ORS. Respondent
^ Through: Mr. M.K. Bhardwaj, Advocate

CORAM:

* **HON'BLE MR.JUSTICE MANMOHAN SARIN**
* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in the Digest?
yes

Manmohan Sarin, J. (Oral)

1. Petitioner has filed this petition challenging the order dated 15.6.2007 passed in O.A. 619/2006 by the Principal Bench of the Central Administrative Tribunal at New Delhi. By the impugned order, the Tribunal dismissed the O.A. declining the relief for compassionate appointment sought by the appellant.
2. Appellant's case in brief is that her husband was working as Greaser in the office of the Officer Commanding No.27, Equipment Disposal Section of the Indian Air Force at New Delhi. Her husband late Shri Benjamin expired on 19th May,

1998 leaving behind the petitioner and two minor school going daughters. Appellant immediately thereafter on 15th June, 1998 applied for compassionate appointment. The request for compassionate appointment was declined vide orders dated 11.12.1999. She made further representations but her case was closed on 5.1.2000.

3. Mr. Y.S. Chauhan, learned counsel for the petitioner submits that the petitioner's case for compassionate appointment had been duly forwarded to the authority for consideration as one deserving employment on compassionate grounds. The grievance of the petitioner is that no reasons or justification for denying the petitioner's claim for compassionate appointment have been conveyed. Learned counsel, with a view to further buttress his argument relies on Annexure P-7 being the instructions No.19(4)/824-99/1998-D(LAB) dated 9.3.2001. It is his grievance that the respondents have not evaluated the petitioner's case for compassionate appointment by according the weightage as prescribed in the said instructions. Counsel for respondent submits that petitioner's case was rightly rejected.

4. We have considered the submissions made by the counsel for the appellant and also perused the original record and the

decision making process brought by the respondents on receiving the advance copy of the petition. Firstly, we may notice that the scale or weightage system which the appellant is referring to became applicable in 2001, while the petitioner's case had been considered in 1998 and rejected at that time. It was further considered in 1999.

5. We have perused the records as produced before us and find that three candidates were selected for compassionate appointments out of Group C and D Unit Control Posts. The methodology adopted for assessing the per capita income was taking into account the pension, property, GPF, DCRG and other receipts and based on that the total monthly income was computed. The total monthly income so computed was then divided by the total number of dependents to arrive at per capita income.

6. In the above exercise, three persons were selected in the first quarter from January, 1999 to March 1999, namely Mr. M. Nandan, Smt. Rani Devi and Mr. Suresh having per capita income of Rs.386, Rs.433, Rs.452 respectively. In the second quarter from April, 1999 to June, 1999 four candidates were selected namely Smt.Kalyani, Mr. Jitender Kumar, Mr. KS Udaykumar and Smt. Bablee Devi having per capita income of

Rs.400, Rs.471, Rs.477 and Rs.478 respectively. Similarly, three candidates were selected between July, 1999 to September, 1999 namely Smt. Bhanumati, Smt. Uma Amalnathan, Shri Nandu having per capita income of Rs.500, Rs.533, Rs.564 respectively. Finally for the quarter ending December, 1999 the persons selected were L.P. Joseph, Mr. Ashok Kumar, Smt. V. Santhi and Smt. K. Vanja having per capita income of Rs.113, Rs.618, Rs.619 and Rs.674 respectfully. It may be noticed that the monthly income of Smt. Mamta Benjamin was arrived at Rs. 2167/- and after dividing it with number of dependents (three) the per capita income was taken as Rs. 722/-. This income being higher than the income of the persons selected.

7. From the foregoing, it can be seen that petitioner was not discriminated against. The criteria adopted by the respondents was neither arbitrary nor irrational. May be at a subsequent stage in 2001, a weightage scale has been considered. We are, prima facie, of the view that instead of that criteria, even if weightage of 2001 had been applied, the result would not have been different. It cannot be said that petitioner has suffered any hostile discrimination. Those persons who have been selected for appointment were more deserving as compared to

the petitioner.

8. We find no infirmity in the order of the Tribunal which has declined the relief of compassionate appointment. Moreover, it has to be noted that compassionate appointment is given to provide immediate succour and relief to the bereaved family in their hour of grief. It is not in the nature of any vested right to employment. Those who need the relief most and found to be in indigent and compelling circumstances, get selected for compassionate appointment. The petition is, accordingly, dismissed.

Manmohan Sarin, J.

Veena Birbal, J.

February 13, 2008
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