

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3631/2014
%

27th January, 2015

SH. VIKAS KUMAR

..... Petitioner

**Through Dr. L.S. Chaudhary, Ms. Pratibha Gupta,
Advocate**

Versus

FOOD CORPORATION OF INDIA
Through

..... Respondent

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. 23.1.2015 was declared a holiday, and by notification no.11/Genl/DHC dated 21.1.2015 cases of 23.1.2015 were to be taken up today. This case is therefore taken up today.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks compassionate appointment with the respondent inasmuch as the petitioner claims that his father Sh. Surender Pal Singh while working with the respondent died in harness on 18.11.2001. The impugned order rejecting the request of the petitioner for compassionate

appointment is dated 21/22.5.2013 (Annexure P-10) and the same reads as under :

“No. E.IX.1/(Misc)/2013/NZ

Dated 21/22.05.2013

**Sh. Vikash Kumar,
S/o Late Sh. Surendra Pal,
Gram-Yakubpur, Post-Dhaturi,
Thana-Salempur, Bulandsaher (U.P)**

Sub:- Compassionate Ground Appointment in r/o Sh. Vikash Kumar S/o Late Sh. Surendra Pal-Regarding.

Sir,

Please refer to your letter dated 18.04.2013 referred to above on the subject cited.

In this connection, it is intimated that your case was rostered at Sl. No. 867/2003 for cat-IV post. It has been examined on merit for the year 2003 by the Zonal Empowered Committee and was rejected with the approval of the Competent Authority since **there was no Vacancy** within ceiling limit of 5% of Direct Recruitment Quota as per Govt. of India instructions in vogue and there is no provision to reconsider the case after rejection.

Yours faithfully,

Sd/-

Manager (E.IX)

For Asst. General Manager (Pers.)

Copy to :

1. AGM (ZE), FCI, Hqrs. w.r.t letter No. 32(6)/11/NZ/Misc/ZE-II/468 dated 10.05.13 – for information.

For Asst. General Manager (Pers.)”

3. The relevant para of the Scheme for Compassionate Appointment which does not permit carrying forward of vacancy in future years is para 7(e) of the Scheme and which reads as under :

“7(e) The committee constituted for considering a request for appointment on compassionate grounds should limit its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too with the ceiling of 5% of vacancies falling under DR quota in Group ‘C’ posts (O.M. NO. 14014/18/2000-ESst. (D) dated 22.06.2001)” (underlining added)

4. It is also relevant to note that in terms of para 5(a) of the Scheme of Compassionate Appointment, one of the reasons for seeking compassionate appointment is to get immediate assistance and avoiding financial destitution.

5. Entitlement to compassionate appointment is not a regular mode of recruitment and the same is an exception to the regular mode of recruitment. Compassionate appointment can therefore be granted only in terms of the Scheme. In terms of the Scheme for Compassionate Appointment, vacancies were limited to 5% per year and in this case were already exhausted in the relevant year, and therefore, the petitioner cannot get any

appointment in terms of the Compassionate Appointment Scheme. Also, by virtue of the said compassionate scheme, the vacancy for the year 2002 or even 2003 cannot be carried forward till the year 2014 when the writ petition has been filed inasmuch as para 5(a) states that eligibility for compassionate appointment is that the family is indigent and deserves immediate assistance for relief from financial destitution, and which immediate position with respect to the death of an employee in the year 2001 cannot be seen as of 2014 when the writ petition was filed.

6. Learned counsel for the petitioner seeks to place reliance upon an order of a learned Single Judge of this Court passed on 24.11.2014 in W.P.(C) 6988/2014 to argue that respondent must consider the case of the petitioner, however, the said order will not apply to the facts of the present case because in the relevant year/concerned year for which the petitioner was entitled to appointment there was a limit of 5% vacancies reserved for compassionate appointment and which limit stood exhausted and whereafter the vacancies cannot be carried forward for the subsequent year.

7. Dismissed.

VALMIKI J. MEHTA, J

JANUARY 27, 2015
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