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

+ W.P.(C) 5697/2015

% *Judgment dated 6th August, 2015*

ASHOK KUMAR Petitioner

Through : Ms.Deepali Gupta, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through : Mr.Raman Duggal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by petitioner under Articles 226 and 227 of the Constitution of India seeking a direction to quash the Order dated 5.3.2015 passed by Central Administrative Tribunal (hereinafter referred to as the "*Tribunal*") in O.A.No.239/2014 and the Order dated 28.10.2013 passed by respondents rejecting the application/representation of the petitioner for appointment on compassionate grounds.
2. The brief facts of the case, which have given rise to the filing of present petition, are that the father of the petitioner, late Sh.Nepal Singh, who was working as a Chowkidar in Lok Nayak Jai Prakash Hospital, expired on 6.8.2006 while suffering from cancer. Sh.Nepal Singh was survived by his wife, three daughters and the petitioner, being the only son. The petitioner, after the death of his father, is stated to have submitted an application along with an affidavit to respondent no.2 in the month of November, 2006, and thereafter on 14.2.2007, for appointment on

compassionate ground. The respondent after considering the application of the petitioner, vide memo dated 25.5.2007, asked the petitioner to furnish details regarding immovable properties owned by him. The petitioner, vide his letter dated 4.6.2007, categorically stated that he did not possess any immovable property. The Screening Committee after considering the case of the petitioner rejected his case on 30.9.2009 and did not recommend him for appointment on compassionate ground, which led to the filing of O.A. 350/2010 before the Tribunal. The said O.A. was disposed of by the Tribunal vide Order dated 5.3.2010 with a direction to the respondent to inform the petitioner herein the decision of the next Screening Committee by a speaking order. In view of the direction passed by the Tribunal, the respondents passed the order dated 11.2.2011 thereby rejecting the case of the petitioner on the ground that there was no vacancy. Further in the order it was stated that the appointment on compassionate grounds could only be considered in a very deserving cases and only if vacancies would arise within a year would the petitioner be considered. Being aggrieved by the Order dated 11.2.2011, the petitioner filed O.A. No.1599/2011 before the Tribunal. The said O.A. was dismissed on 20.10.2011. The petitioner thereafter filed a review application, being R.A.No.405/2011, which was also dismissed. The petitioner thereafter filed W.P.(C)No.7754/2012 before the Delhi High Court, which was allowed thereby directing the respondent to consider the case of the petitioner for compassionate appointment in terms of the O.M. dated 9.10.1998, as amended from time to time, but disregarding the O.M. dated 5.5.2003. The respondents again rejected the application of the petitioner vide order dated 28.10.2013 on the same grounds. Aggrieved by the said order dated 28.10.2013, the petitioner herein filed O.A.No.239/2014, which was dismissed by the Tribunal vide Order dated

5.3.2015, which has led to the filing of the present writ petition.

3. Learned counsel for the petitioner submits that the respondents have failed to consider the case of the petitioner sympathetically. The respondents have rejected the case of the petitioner by passing a mechanical order without any application of mind. Counsel further submits that the respondents have failed to consider that the petitioner had to leave his studies to look after his ailing father and, thus, it was a fit case where he should have been given compassionate appointment. It is further submitted that the Tribunal has also dismissed the O.A. filed by the petitioner without appreciating the facts and the law, as applicable to the case of the petitioner, and, thus, the said order is unjustified, illegal and liable to be set aside.
4. We have heard learned counsel for the parties, considered their rival submissions and also perused the orders passed by the Tribunal and the orders passed by the respondents including the order dated 28.10.2013. A perusal of the reasoned Order dated 28.10.2013 passed by the respondent would show that the case of the petitioner was considered by the Screening Committee and it was noticed that the petitioner is a divorcee and his mother is the only person, who is dependent upon him. The Screening Committee also noticed that the family had received Rs.3,43,792/- as terminal benefits, besides pension of Rs.3510/- + Dearness Allowance, per month, is being received by the mother of the petitioner. Further that the case of the petitioner had been considered on three occasions by the Screening Committee and not found fit for recommendation. It was also explained that the first priority is for families, which are living in extremely indigent circumstances and having all children, who are less than 12 years of age and no other source of livelihood and next consideration can be given to such cases where the

family is living in extremely indigent circumstances with minor children less than 18 years of age and no other source of employment.

5. The order dated 28.10.2013 passed by the respondents is a detailed and well-reasoned order. In the said order, the scheme for compassionate appointment and the criteria adopted by the respondent has been elaborated. As per the scheme, the first priority is to be given to those families, which are living in extremely indigent circumstances and are having all children, who are less than 12 years of age, and which have no other source of livelihood.
6. The case of the petitioner does not fall in the aforestated category as, firstly, there are no children less than the age of 12 years and, secondly, the mother of the petitioner is receiving pension of Rs.3500/- + Dearness Allowance, per month. In addition to this at the time of the death of the petitioner's father, the mother of the petitioner had received Rs.3,43,792/- as terminal benefits.
7. In view of above, we find no infirmity in the Order dated 5.3.2015 passed by the Tribunal. The petitioner, in our view, has not made out a case for judicial review. Resultantly, the writ petition is without any merit and the same is dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 06, 2015

msr