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

Judgment dated: 8th August, 2016.

+ W.P.(C) 6938/2016
DEEPAK KUMAR Petitioner

Through : Mr. Aseem Mehrotra, Advocate.

versus

COMMISSIONER OF POLICE AND ANR Respondents

Through : Mr. Santosh Kumar Tripathi,
Advocate for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

CM No. 28511/2016 (Exemption)

Allowed subject to all just exceptions.

The application stands allowed.

W.P.(C) 6938/2016

1. Challenge in this writ petition is to the order dated 26th May, 2016 passed by the Central Administrative Tribunal (*hereinafter referred to as 'the Tribunal'*) by which O.A. No. 2468/2015 filed by the petitioner herein seeking compassionate appointment has been dismissed. Mr. Mehrotra submits that the only ground for rejection as per the letter of rejection dated 31st December, 2014 is that the petitioner was "less deserving" as his case was not covered under the criteria of DoPT instructions and Standing Order No. 39/14.

2. Counsel for the petitioner submits that the learned Tribunal has failed to take into consideration the fact that the petitioner has to support his step mother and her two children. Counsel also submits that the Tribunal has failed to consider the principle laid down by the Supreme Court in ***Canara Bank & Another v. M. Mahesh Kumar***, (2015) 7 SCC 412 that grant of family pension cannot be one of the ground to reject the appointment of the kin of a deceased employee on compassionate grounds. Reliance is also placed on ***Balbir Kaur & Anr. v. Steel Authority of India Ltd. & Ors.***, (2000) 6 SCC 493, where the Supreme Court has taken into consideration that the ground of family benefit scheme cannot in any way be equated with the benefit of compassionate appointment. Counsel also submits that the Tribunal has mis-directed itself and returned the finding that the petitioner was having a property valuing Rs.24 lacs and an annual income of Rs.13,000/-. Counsel further submits that the share of the petitioner in the property valuing Rs. 24 lacs would only come to Rs. 4.80 Lacs and thus, it cannot be a ground to reject his application. Counsel also submits that the Tribunal has failed to consider the case of the petitioner *vis-a-vis* 147 other candidates who have been appointed on compassionate grounds and no reasons have been given in this regard.

3. We have heard the learned counsel for the petitioner. The judgments sought to be relied upon by the petitioner are not applicable to the facts of the present case as the Tribunal has not rejected the case of the petitioner either on the ground that the petitioner is receiving family pension or he is entitled to the benefit of family pension scheme. In this case, the Tribunal has rejected the OA after perusing the minutes of the meeting of Police Establishment Board. We deem it appropriate to reproduce Para 8 of the order of the Tribunal:-

“8. In order to ascertain whether applicant’s case had been fairly dealt with by the respondents, I had summoned the minutes of the meeting of the Police Establishment Board in which all these cases had been considered together with a copy of the standing order applicable for considering compassionate appointment cases. On going through the minutes of the Police Establishment Board, I find that the applicant was found to have property valuing 24 lacs with an annual income of Rs.13,000. On the other hand, in the case of Paramjit Bikel, D/o Inspr. Nand Kumar Bikel, the value of property was assessed at 13.56 lacs and in the case of D/o ACP Devi Lal Negi, the family property was found to be nil. Thus it would appear that financially both of them were more deserving to get compassionate appointment as compared to the applicant. Moreover, Paramjit Bikel had a B.Tech degree whereas Deep Shikha Negi, D/o ACP Devi Lal Negi had a graduation degree and belonged to ST category. On the other hand, applicant was only 12th standard pass”.

(Emphasis Added)

4. Based on the comparison above, the Tribunal reached to the conclusion that the petitioner was less deserving than other persons, who were more in need of financial assistance. The law with regard to compassionate appointment is well settled. There is no right to seek compassionate appointment. The aim and objective of the compassionate appointment is to help the family in distress and in need when a family member dies. In the case of **Santosh Kumar Dubey v. State of U.P. and Ors., (2009) 6 SCC 481**, the Supreme Court has observed as under:

“11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service."

(Emphasis Supplied)

5. In the present case, the request of the petitioner was examined by the Board. As per the direction of the Board, other applicants were found more deserving than the petitioner.

6. The ground of *malafide* has neither been raised in the O.A. filed before the Tribunal nor in the writ petition filed before us. It has not been urged before us that the procedure adopted by the respondent was unfair, arbitrary or *malafide*. In the absence thereof, and taking into consideration the fact that the Tribunal has examined the record, we do not find any perversity or infirmity in the order passed by the Tribunal.

7. The writ petition, being devoid of merits, is accordingly dismissed.

G.S.SISTANI
(JUDGE)

I.S. MEHTA
(JUDGE)

AUGUST 08, 2016

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