

\$~4

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

+ **W.P.(C) 11635/2018**

YOGINDER KUMAR Petitioner

Through: Mr. Kartar Singh, Advocate.

versus

UNION OF INDIA AND ANR. Respondents

Through: Ms Shiva Lakshmi, CGSC with
Mr. Siddharth Singh, Advocate.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

%

01.11.2018

1. The Petitioner has come to this Court questioning an order dated 5th January 2015 of the Central Vehicle Depot, Delhi Cantonment whereby his request for compassionate appointment, on account of the death of his father while in service as labourer, was turned down.

2. After setting out the relevant DOPT instructions and the ratio of the judgments of the Supreme Court, the authority has explained in great detail in paras 4, 5 and 6 of the letter, the reasons for turning down the Petitioner's request. The said paragraphs read as under:

“4. In the present case, according to the information available on record, the following is the position/status of the family of the deceased (MBO Missing) government servant:

- (a) The death/MBO Missing of the Government servant occurred on 6th February 2007. His wife, and one son survive him. The deceased (MBO Missing) government servant's family received Rs. 319743/- as terminal benefits. At present the rain receipt of monthly pension of RS. 5110/- plus Dearness relief.
- (b) The family owns property worth Rs. 50000/-.
- (c) The 02 members irrespective of living together are earning Rs. 25000/- p.a.

5. It is intimated that your request has been considered thrice by the Board. As per policy explained above, you obtained marks as under:

Marks Obtained

Family Pension	:	16
Terminal Benefits	:	10
Monthly Income	:	04
Moveable/immovable Property	:	08
No. of dependents	:	10
No. of unmarried daughters	:	00
No. of minor children	:	00
Left over service of deceased	:	06
Total Marks	:	54

The total marks obtained by the last candidate who was considered along with you and is recommended as under:-

Marks of last recommended applicant:	76	72	70
	<u>1st time</u>	<u>2nd time</u>	<u>3rd time</u>

6. On the basis of 5% of vacancies occurred during the years i.e. 10-11, 11-12 and 12-13, only 30, 47 and 40 vacancies for Group C (Erstwhile Group 'D' carrying Grade Pay of Rs. 1800/- or without Grade Pay) were earmarked for compassionate appointment respectively. Since your name was considered along with other candidates thrice on the basis of criteria laid down to determine relative hardships and limited number of vacancies available, it is not feasible to consider your name

again as per existing policy.

7. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgments of the Hon'ble supreme Court and that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority has rejected the employment assistance to Shri Yoginder Kumar S/o Late Shri Vijay Parkash on compassionate grounds.

3. It therefore appears that the objective criteria devised by the Respondents was applied in Petitioner's case and his name was considered not once but thrice along with other candidates similarly placed.

4. Learned counsel for the Petitioner urged that the Petitioner is in abject penury and in dire need of employment and therefore his case should be favourably considered by the Respondents. However, he is unable to point out what error was committed by the Respondents in applying the objective criteria in his case. He also does not assail the criteria itself as being irrational or irrelevant when it comes to considering persons for compassionate appointment. In these circumstances, the Court is unable to accept the prayer of the Petitioner.

5. The petition is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 01, 2018/nk