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

+ W.P.(C) 8882/2019

SANJEEV KUMAR

..... Petitioner

Through: Dr. Rajeev Sharma with Mr. Prashant
Sharma and Ms. Meena Hasan, Advs.

versus

COMMISSIONER OF DELHI POLICE AND ANR..... Respondent

Through: Mrs. Avnish Ahlawat with Mr. N.K.
Singh and Ms. Laveena Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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19.08.2019

CM APPL. 36646/2019 & C.M. No. 36647/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 8882/2019 & C.M. No. 36648/2019

The petitioner assails the order dated 22.02.2019, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 621/2019. The Tribunal has rejected the said Original Application wherein he sought directions for his compassionate appointment on account of the demise of his father in harness on 29.10.2007. The petitioner states that since the demise of his father, he has been requesting

for compassionate appointment. The same was not granted initially on account of the fact that he was short in height and subsequently on account of the fact that he was over age. The record shows that the petitioner first approached the Tribunal only in the year 2017.

It is well settled that compassionate appointment is granted to the members of the deceased government servant who dies in harness to tide over the immediate financial distress and exigencies that the family is plunged into on account of such unforeseen demise. Compassionate appointment is not a regular source of recruitment. In the present case, 12 years have passed since the demise of the petitioner's father and thus, it cannot be said that need for grant of compassionate appointment survives.

Mrs. Ahlawat, who appears on advance notice, has tendered in court a recent judgment of the Supreme Court in ***The Govt. of India & Anr. v. P. Venkatesh***, Civil Appeal No. 2425/2019, decided on 01.03.2019. In this decision, the Supreme Court has observed as follows:

“The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13

November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee.

In Umesh Kumar Nagpal Vs. State of Haryana⁵, this Court held thus:

“2...The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in nonmanual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the

emergency.”

Bearing in mind the above principles, this Court held:

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

The recourse to the Tribunal suffered from a delay of over a decade in the first instance. This staleness of the claim took away the very basis of providing compassionate appointment. The claim was liable to be rejected on that ground and ought to have been so rejected. The judgment of the High Court is unsustainable.

We accordingly allow the appeal and set aside the impugned judgment and order of the High Court. In consequence, we affirm the judgment of the Tribunal dismissing the Original Application. There shall be no order as to costs.

We do not find any merit in this petition. Dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 19, 2019

N.Khanna