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

+ W.P.(C) 8260/2023

REENA DEVI

..... Petitioner

Through: Tushar Mahajan with Mr.Bhaavan
Mahajan, Advocates.

versus

HIGH COURT OF DELHI THROUGH ITS REGISTRAR
GENERAL

..... Respondent

Through: Mr.Gaurav Dhama with Ms.Malvika
Raghavan, Advocates.

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Date of Decision: 02nd August, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MANMOHAN, J: (ORAL)

1. Present writ petition has been filed challenging the order dated 13th January, 2023 passed by the respondent rejecting her application/representation dated 01st September, 2022. Petitioner also seeks a direction to the respondent to decide the representation of the petitioner afresh and consider her request for appointment on compassionate grounds independent of the retiral benefits which had been received by the petitioner.

2. Learned counsel for the petitioner states that the husband of the petitioner- Late Mr. Narender Kumar was working as a chauffeur in the establishment of this Court since 07th June, 2013. He states that the husband



of the petitioner unfortunately died in harness on 17th April, 2022. He states that the deceased husband of the petitioner- Late Sh. Narender Kumar left behind a family of four including the petitioner and their two minor children and the mother-in-law of the petitioner.

3. Learned counsel for the petitioner states that the petitioner submitted a representation dated 01st September, 2022 to the respondent requesting the respondent for appointment on compassionate ground for herself on the ground that there was no earning member left in the family.

4. However, he states that by way of the impugned order dated 13th January, 2023, representation made by the petitioner was rejected on the sole ground that the financial condition of the petitioner's family was not penurious because the petitioner has received approximately Rs.7 lakhs on account of DCR Gratuity, Rs.3,89,036/- as leave encashment and because the petitioner was further entitled to receive monthly pension of Rs.22,050/- plus dearness allowance.

5. Learned counsel for the petitioner states that the fact that the petitioner has received retirement benefits of the deceased cannot be the sole ground for dismissal of the application/representation for compassionate appointment. He states that the children of the petitioner are school going and the petitioner also has to bear the expenses for the same apart from taking care of the medical expenses of her ailing mother-in-law. As such, according to the petitioner, the retirement benefits are not sufficient to make both ends meet.

6. *Per contra*, learned for the respondent states that it is settled law that appointment on the basis of compassion is not a right. He relies upon the decision of this Court in **Kavita vs. Delhi High Court & Anr., W.P.(C)**



No.8861/2022, wherein this Court after relying upon a catena of judgments of the Supreme Court held that “*appointment on compassionate grounds is an exception carved out to the general rule that recruitment to public services is to be made in a transparent and accountable manner by providing opportunity to all eligible persons to compete and participate in the selection process*”.

7. Learned counsel for the respondent further states that petitioner’s representation was rejected only after consideration of all facts by the Competent Authority. Since considerable emphasis has been laid by the learned counsel for the respondent on the Minutes of Meeting of the Administrative Committee for appointment of officials of Delhi High Court, the same is reproduced hereinbelow:-

Item No.	Agenda	Minutes
13.	To consider the request dated nil (received on 1.9.2022) made by Ms. Reena Devi Wd/o Late Shri Narender Kumar, Ex-Chauffeur of this Court, for appointment of herself to the post of Junior judicial Assistant on compassionate grounds.	The Committee has considered the representation of representationist whereby she is requesting for her employment in this Court on compassionate ground. The Committee has also perused the office note and gone through all the relevant records, including, the guidelines regulating appointment on compassionate ground. The Committee is also conscious of the fact that the object of the Scheme governing compassionate appointment is to relieve the family of the Government servant concerned, who dies in harness from financial destitution and to help them to get over the emergency but in the present case, the family of the deceased government servant was not found to be entitled to compassionate appointment as the income of her family from all sources was found to be sufficient for the family and financial conditions of the family was



		<i>considered to be not penurious, for the reason that, representationist received approximately Rs.7,00,000/- on account of DCR Gratuity, Rs. 3,89,036/- as encashment of leave etc., apart from monthly family pension of Rs. 22,050/- plus Dearness Allowance. The Committee also feels that the condition of the family is not indigent and they are not living in penurious condition.</i> <i>The Committee, after due deliberations and in view of the position explained above, finds that the request of the representationist for her appointment in this court on compassionate ground, cannot be acceded to and recommends for rejection thereof.</i>
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8. He also states that the petitioner does not meet the age eligibility criterion for appointment in accordance with the Delhi High Court Establishment (Appointment & Conditions of Service) Rules, 1972. He points out that the age of entry into service in this Court is not less than 18 years of age and not above 32 years, as on the 1st day of January in the year in which the process of selection is initiated. He states that the petitioner's age was 33 years, 6 months and 20 days as on 1st day of January, 2022.

9. In rejoinder, learned counsel for the petitioner states that the pension of the petitioner shall be reduced by Rs.10,000/- after ten years. He also states that the High Court has the power to relax the age criteria. He further states that the additional qualifications of the petitioner should enure to her benefit and not to her detriment.

10. The principles which have to be mandatorily taken into account while deciding whether to grant compassionate appointment or not, have been succinctly stated by the Apex Court in its recent judgment in ***State of West***



Bengal vs. Debabrata Tiwari & Ors., 2023 SCC OnLine SC 219. The relevant portion of the said judgment is reproduced hereinbelow:-

"32. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment takes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source."

11. Consequently, compassionate appointment is to be made so as to enable the family of the deceased to get over the sudden financial crisis.

12. While it is true that the representation for compassionate appointment cannot be rejected on the ground that the applicant-petitioner has received retiral benefits of her husband, yet upon perusal of the file, this Court finds that other facts like the applicant-petitioner being entitled to monthly pension were considered by the Administrative Committee while rejecting her application-representation.



13. This Court is also of the opinion that the monthly pension of Rs.31,800/- per month being drawn by the petitioner as of today, is a substantial sum and it cannot be said that the petitioner's family is in a financial crisis.

14. There is logic in reduction of family pension after ten years as there is a high probability that the minor children at the time of the death of the employee shall become major and shall be eligible for obtaining employment.

15. As far as the additional qualifications obtained by the petitioner are concerned, this Court is of the view that the said point cannot be considered as the petitioner in the present writ petition is seeking compassionate appointment. The qualifications of the petitioner will have to be considered with other competitors, in case the job is advertised. However, this Court is of the view that with the petitioner's qualifications (M.A. B.Ed.) with basic knowledge of computer, she has a very good chance of getting a private job.

16. Moreover, this Court in writ jurisdiction examines the decision making process and not the decision. In the present case, not only the relevant papers had been placed before a Committee of four Hon'ble Judges of this Court on the administrative side and a reasoned decision was taken, the same was also approved by the Hon'ble Chief Justice on the administrative side.

17. In fact a perusal of the aforesaid Minutes of Meeting reveals that a number of applications for compassionate appointments were considered by the Administrative Committee on the said date. Though some of the representations were found meritorious, especially where the deceased had



special children, yet their cases had to be deferred as there was no vacancy in the category of 'Court Attendants'.

18. Keeping in view the facts and circumstances of the case, this Court is of the view that it cannot be said that the decision of the Administrative Committee was patently arbitrary, unreasonable and illegal. Accordingly, present writ petition is dismissed.

MANMOHAN, J

MINI PUSHKARNA, J

**AUGUST 02, 2023
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