



2024:DHC:9055-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 13038/2023****COMMISSIONER OF POLICE AND ORS.Petitioners**Through: Ms. Garima Sachdeva, SPC &
Ms. Divyanshi Maurya, Advocate.

versus

YOGESH KUMARRespondent

Through: Mr. Amit Kumar, Advocate.

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE AMIT SHARMA****ORDER (ORAL)****20.11.2024**

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1. The respondent is the son of a former Head Constable in the Delhi Police who died while in service on 28 November 2006, leaving behind his widow, three unmarried daughters and the respondent. He belongs to the Other Backward Classes¹.

2. Complaining that his plea for appointment as Multi Tasking Staff² on compassionate grounds in the Delhi Police had been illegally rejected on 18 February 2020, the respondent approached the Central Administrative Tribunal³ by way of OA 1895/2022⁴.

3. The communication dated 18 February 2020, whereby the respondent's application was rejected cited, as the sole ground for rejection, the fact that he was 32.9 years of age on 30 January 2020,

¹ OBC

² "MTS"

³ "the Tribunal" hereinafter



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when the application for compassionate appointment had been made, whereas the maximum age for appointment to the post of MTS in the Delhi Police for an OBC candidate was 30 years.

4. The respondent pointed out that his mother had applied, as far back as on 9 January 2007, for appointment of the respondent in the Delhi Police on compassionate grounds, and that the application had remained pending, which was the sole reason as to why the respondent had crossed the prescribed age bar.

5. The petitioner sought to contend before the Tribunal, *per contra*, that it was not as though the application for compassionate appointment of the respondent, submitted by his mother on 9 January 2007, had not been considered. It was submitted that the Screening Committee had considered the application in its meetings held between 20 December 2017 and 29 December 2017, but that the respondent could not be granted compassionate appointment for want of vacancies.

6. The Tribunal granted an opportunity to the petitioners to produce the records to indicate that the application submitted by the respondent's mother on 9 January 2007 had indeed been considered by the petitioners. The records were never produced before the Tribunal, and have not been produced before us either. Ms. Garima Sachdeva, learned Counsel for the petitioners, submits that the records are not traceable.

7. In these circumstances, the Tribunal holds, in the impugned

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order, that the plea that the application for compassionate appointment submitted by the respondent's mother had been considered in 2007 could not be accepted.

8. Accordingly, the Tribunal has disposed of the OA by directing as under, in paras 14 and 15:

“14. Accordingly, without commenting whether the applicant would be meritorious enough in comparison with other applicants or not, I dispose of this OA with a direction to the competent authority amongst the respondents to consider the limited claim of the applicant for appointment to a Group D post/MTS on compassionate grounds, strictly in terms of the of the rules and instructions governing the subject, as expeditiously ah as possible without allowing his age to be an obstacle in such a consideration.

15. To clarify, the meeting of the Screening Committee constituted for the purpose which is held immediately after pronouncement of this order shall consider the case of the applicant and make appropriate recommendation.”

9. The present petition has been filed by the Commissioner of Police, challenging the aforesaid order.

10. We frankly fail to understand why this petition was filed at all. The direction issued by the Tribunal is only to consider the case of the respondent for compassionate appointment to a Group D post, strictly in terms of the applicable rules and instructions. The only caveat that the Tribunal has entered is that the respondent's age would not be treated as a ground to disentitle him from compassionate appointment.

11. We are in agreement with the finding of the Tribunal that the case of the respondent could not have been rejected on the ground of age, as there was no evidence to indicate that the application submitted by his mother on 9 January 2007 had indeed been



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considered by the petitioners.

12. Qua all other aspects, full liberty has been reserved with the petitioner to consider the case of the respondent for compassionate appointment on its own merits.

13. We, therefore, do not find that this is a case which calls for interference at our hands. The petition is accordingly dismissed.

14. Compliance with the directions passed by the Tribunal be ensured within a period of four weeks from today.

C. HARI SHANKAR, J.

AMIT SHARMA, J.

NOVEMBER 20, 2024

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Click here to check corrigendum, if any