
(2019) 09 CAT CK 0077
In the Central Administrative Tribunal
Case No : Original Application No. 354 Of 2019

Naveen Kumar

APPELLANT

Vs

Delhi Police And Ors

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 09 CAT CK 0077

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Anil Singal, Esha Mazumdar

Final Decision : Dismissed

Judgement

By filing this OA, the applicant is seeking the following reliefs:-

1. To call for records of the case and quash/set aside the Order dt. 23.2.2011, Order dt. 10.7.2013, Order dt. 9.11.2015, Order dt. Jan, 2019 and Proceedings of Committees on the basis of these impugned orders were issued.
 2. To direct the respondents to provide appointment to applicant on compassionate ground to the post of HC(Min.) or MTS at the earliest.
 3. To award cost in favour of the applicant and pass any other order or orders, which this Hon'ble Tribunal may deem just & equitable in the facts and circumstances of the case.
2. Brief facts of the case are that the applicant's father was holding the post of Head Constable (Exe.) in Delhi Police and expired on 11.7.2007. After the said demise of the deceased Govt. employee, his wife Smt. Shakuntala Devi had submitted an application for appointment of her elder son, namely, Parveen Kumar to the post of HC (Min.)/Constable (Exe.) on compassionate ground in Delhi Police. The said request was considered by the Screening Committee in its meeting held on 20-29/12/2017 but could not be approved as no approval was

made for the post of HC (Min.) and he was overage for the post of Const. (Exe.), as his date of birth being 18.09.1979.

2.1 Thereafter, elder son of the deceased HC, namely, Parveen Kumar had requested that the name of his younger brother, i.e., Naeen Kumar (Applicant in this OA) may be considered for the post of Constable (Exe.). The said request was again considered by the PEB in its meeting held on 29.05.2009 but could not be approved as the height of the applicant is 161.5 cm. against the permissible height of 165 cm. (after giving relaxation by 5 c.m.) for the wards of deceased police personnel. Thereafter, he came up with another request that the name of the applicant may be considered for the post of HC (Min.) on compassionate ground. The said request was again reconsidered by the Police Establishment Board in its meeting held on 3.12.2009 and again on 20.07.2010 but could not be approved as no approval was made for the post of HC (Min.) and the height of the applicant is short by 3.5 cm. for the post of Constable (Exe.).

2.2 This matter was represented to the Lt. Governor, Delhi and Lt. Governor vide UO dated 2.2.2011 intimated that on account of shortage of height to the extent of 4 cm., the case of the applicant has not been considered for compassionate appointment and observed that the applicant may be sponsored for technical training in any institute of his choice where he can obtain necessary qualification and thereafter earn his livelihood as a result of this qualification earned by him. Thereafter the applicant was asked to intimate the name of Institute in which he wants to undergo technical training. In response, the applicant intimated that he wants to get admission in Arya Bhatt Polytechnic, Ashok Vihar but CAO-CET, 2011 intimated that there is no such provision for admission on compassionate ground. However, they had asked to intimate Roll No. & Rank of the candidate, if he has appeared in CET, 2011 for admission to the Polytechnic under Delhi Government but applicant intimated that he had not appeared for CET Text, 2011 for the admission.

2.3 The applicant instead of giving his willingness for admission in any other Institute for Technical Training had refused the same and stated that his time will also be wasted and the said course shall not give any benefit to him for providing any Govt. service.

2.4 Furthermore, the applicant came up with another request that his name may be reconsidered for the post of HC (Min.)/Const. (Exe.)/Const. (Drv.) on compassionate ground in Delhi Police. The request was again considered by the Police Establishment Board in its meeting held on 22.12.2010 but could not be approved. Moreover, the request of the applicant was also rejected by the Police Establishment Board in its meeting held on 11.06.2013 & 19.10.2015. However, in compliance of the directions of the then Lt. Governor, Delhi, the name of the applicant was again reconsidered by the Committee in its meeting held on 24.06.2016 but could not be approved as that time, he had already crossed the age of 30 years on 21.10.2015 as his date of birth was 21.10.1985.

2.5 Besides the name of the applicant was also reconsidered by the Screening Committee in its meeting held on 11.10.2018 for the post of MTS but could not be approved for the reason of being overage because as per the Standing Order No.39/2018, permissible age for the post of MTS is 32 years (being SC category) whereas applicant has already completed the age of 32 years, 05 months and 22 days on 13.4.2018 i.e. the date of application.

2.6 Being aggrieved by the rejection of his candidature for appointment on compassionate ground, the applicant has filed this OA seeking the reliefs as quoted above.

3. During the course of hearing, learned counsel for the applicant submitted that the applicant's case for appointment on compassionate ground to the post of HC (Min.) was wrongly rejected by the respondents on the ground that his case could not be approved as no approval was made for the post of HC (Min.) and the height of the applicant is short by 3.5 cm. for the post of Constable (Exe.) whereas certain other candidates were given appointments to the said post of HC (Min.) by the respondents which is evidently clear from Annexure A/9 which is the extract of Minutes of Meeting of compassionate ground cases held on 11.06.2013.

3.1 Counsel further contended that the case of the applicant has been found to be deserving one by the respondents as is clear from the fact that his case has not been rejected on the ground of being less deserving but due to wrong and illegal ground of being overage for the post of HC (Min.). Counsel further contended that the applicant is not claiming appointment to the post of Constable (Exe.) for which his case has been wrongly considered and rejected due to being 'short of height' since admittedly he is short in height for the post of Constable (Exe.). Therefore the applicant applied only for the post of HC (Min.) and now for the post of MTS for which he is fully eligible.

4. On the other hand, learned counsel for the respondents submitted that due to paucity of vacancy in the rank of HC (Min.), the members of Police Establishment Board, for the sake of natural justice, tried to accommodate more eligible candidates to the initial rank i.e. Const. (Exe.). In the instant case, the applicant is short of height by 3.5 cm (after giving relaxation in height) for the post of Const. (Exe.), which fact is also admitted by the applicant in his pleadings. Counsel further submitted that the case of the applicant for the post of MTS was also considered but since he was overage by about five months and his education qualification of 12th Standard was less than that of other applicants, the case of the applicant was rejected for the post of MTS. Again it is stated that his case was not approved by the competent authority for the post of HC (Min.) on merit.

4.1 Counsel for the respondents further contended that offering compassionate appointment was considered against all available vacancies irrespective of the rank/post applied for by the applicant/candidates. Counsel further emphasized that on the basis of instructions/guidelines of DOP&T as well as Standing Order

No.39/2014, the Police Establishment Board scrutinizes the date of all applicants thoroughly and also keeping in mind the judgment dated 4.5.1994 of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana and others while considering compassionate ground cases. Counsel also submitted that there is a limitation for appointing suitable candidates on compassionate ground in Delhi Police. However, the members of Board take decision on merits of the case and norms. Nevertheless, due to paucity of vacancy in the rank of HC (Min.), the members of PEB, for the sake of natural justice, try to examine whether it is possible to accommodate more eligible candidates in the initial rank i.e. Const. (Exe.).

4.2 Counsel further submitted that as per Clause 8 (i) of S.O. No.39/2018, the cut-off date for fixing the age of the candidate for compassionate ground appointment shall be date of application subject to fulfilling other eligibility or criteria. The applicant had applied for the post of MTS on 13.4.2018 and he has completed the age of 32 years 5 months and 22 days as his date of birth was 21.10.1985 on the date of application i.e. 13.04.2018.

4.3 Counsel for the respondents placed reliance on the decision of the Hon'ble Supreme Court in the case of Life Insurance Corporation of India vs. Asha Ramachandra Ambekar and others in Civil Appeal No.1381/1994 decided on 28.2.1994 in which it has been held that the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate ground.

4.4 Lastly counsel for the respondents submitted that there is nothing illegal in the actions of the respondents while considering and rejecting the case of the applicant for grant of compassionate appointment as the said decisions were taken by the respondents in accordance with rules and law on the subject.

5. After hearing learned counsel for the parties and perusing the pleadings on record, it is observed that impugned orders do not suffer from any illegality as it is trite law that the object of grant of compassionate appointment is to enable the family of the deceased Govt. employee to tide over the sudden crises and to relieve from financial destitution and help it get over the emergency. However, it is admitted position that each and every applications submitted by the applicant and his elder brother as well as his mother were considered time and again by the respondents and the same were not acceded to for the reasons as explained by them while considering his case along with other candidates in the meetings held for the purpose by the respondents.

6. So far as contention of the applicant that his case has not been considered for the post of HC (Min.) is concerned, it is trite law that in matter of compassionate appointment there cannot be insistence for a particular post especially on account of limited vacancies. Since the respondents have quite clearly stated that applicant's case for the post of HC (Min.) could not be approved and the height of the applicant is short by 3.5 cm. for the post of Constable (Exe.) and as such his

case was rightly rejected on this ground. Further his case for the post of MTS was also considered by the PEB but he was found to be overage as noted above and could not be given appointment.

7. It is relevant to note here that In the case of Nanak Chand v. Delhi Jal Board, 2007(140)DLT 489, the Hon'ble Delhi High Court clearly held as under:-

"14. The mandate of the Supreme Court is very clear from the aforestated judgments that it is not for the High Court in exercise of its powers under Article 226 of the Constitution of India to interfere with the decision arrived at by the competent authority while considering the eligibility of an applicant for appointment on compassionate basis and all it can do is to see whether the decision of the competent authority is vitiated. Having scrutinized the cases in hand in the aforesaid background, this Court does not consider it appropriate to interfere with the findings of facts and the conclusion arrived at by the competent authority."

8. In the facts and circumstances of this case and for the reasons stated above, this Tribunal does not find any merit in this case and the same is according dismissed. There shall be no order as to costs.