
(2000) 05 DEL CK 0067
In the Delhi High Court
Case No : CWP. No. 949 of 2000

Raj Kaur

APPELLANT

Vs

U.O.I. and Others

RESPONDENT

Date of Decision : 03-05-2000

Acts Referred:

Citation : (2000) 05 DEL CK 0067

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. H.S. Dahiya, for the Appellant; Ms. Barkha Babbar, for the Respondent

Judgement

A.K. Sikri, J.—Rule.

The husband of the petitioner late Sube Singh who was working in CRPF as Sub-Inspector in 181 Battalion died while in service on 29.1.1999. The petitioner gave an application on 16.2.1999 to the Commandant, 131 Battalion for appointment of her son on compassionate grounds because the financial condition of the family was very poor. The petitioner received no reply of her application dated 16.2.1999. The petitioner on being instructed gave another application on 31.5.1999 to IG/NS and submitted that she had no other source of income except the salary of her late husband and the agriculture income was as good as nil. The petitioner was informed by letter dated 25.8.1999 by the Commandant 131 Battalion that the economic condition of the petitioner's family was good and that her one son was already employed in CRPF. Therefore, the matter of recruiting one of her unemployed sons was not found worth considering.

2. Petitioner has filed this writ petition challenging the aforesaid decision conveyed vide letter dated 25.8.1999. It is the submission of the petitioner that her application was arbitrarily and illegally rejected by the IGP/NS summarily and without considering the case of the petitioner on merit. The IG/NS arbitrarily held

that the economic condition of the petitioner family was proper/good whereas the family has only share of one and half acres of land in dry area and were having only meager income from this small piece of agriculture land. The Inspector General without giving any opportunity to the petitioner to satisfy about the financial position of the family and without any basis gave the arbitrary decision. The Inspector General/NS was also not competent authority to reject the case of the petitioner because the competent authority as per the rules to decide the matter was Director General/CRPF. The IG/NS also took the decision not to consider the case of the petitioner because the eldest son of the petitioner was employed in CRPF. The IG/NS failed to consider that the eldest son of the petitioner was recruited in CRPF on merit when the husband of the petitioner was alive. The IG/NS also failed to consider that the eldest son of the petitioner was having his own family and was living separately from the petitioner's family and was not contributing for up keeping of the family. The IG/NS also failed to consider that as per the guidelines one member of the family being already employed in Govt service was no bar to give employment on compassionate grounds.

3. When this matter came up for preliminary hearing on 17.2.2000, learned counsel for the petitioner submitted that the application of the petitioner for appointment on compassionate ground is rejected on two grounds, namely, (i) the family is not in good condition and (ii) one of the sons of the deceased employee is already in employment. It was contended that no reasons are stated while rejecting the application as to how the family of the petitioner was in good condition. It was also submitted that competent authority to decide this case was Director General and the decision had been taken by an authority inferior to him. These submissions were recorded in the order dated 17.2.2000 and the respondents were directed to produce the relevant records. Today MS. Barkha Babbar has produced the original records and a perusal thereof shows that all the aspects of the case were duly considered by the respondents before rejecting the application of the petitioner. The relevant portion of the note sheet reads as under:

"The above deceased left behind 5 members of his family in harness. His one son namely Brahm Prakash is serving in CRPF as Ct. But he is separate. Other two sons are unemployed and fully depend on the family pension. The details of financial benefits received by the widow is as under:

1) Family pension : Rs.2838/-P.M.+DA 2) DCRG : Rs.47203/- 3) GPF Balance : Rs.72538/- 4) CGEGIS : Rs.40476/- 5) Risk fund : Rs.60000/- lump-sum Premium Rs.15000/- from CWF Rs.1000/-p.m.as recovering monthly payment from RPF for 20 years Total Rs.4,35,217 6) Monthly income: Rs. 415/-P.M. from other sources agriculture. 7) Monthly income: Rs. 2838/- +DA being received by Rs. 1000/- Risk fund the widow.

In addition to above, the widow has a house of her own and having 2 acres of land whereas she has to maintain a family consisting of two children and one

daughter in law.

Further, it is also submitted that as per the para 1 of So 10/99 compassionate appointment will be the considered, provided no other members of the deceased family is already in service in CRPF and that condition of the family is precarious. But as per the details of financial benefits received by the widow, the financial condition of the deceased family appears to be not precarious which lead to offer a post of compassionate appointment to the member of deceased family. Also one son namely Sh. Braham Prakash also serving in CRPF. As such after taking into account of assets and liability of the deceased family, there comp. appointment case is not covered under the provisions of So-10/99. We may if approved return the case to DIGP Ajmer accordingly."

4. Thus before rejecting the case of the petitioner refusing to give appointment on compassionate basis apart from the fact that one of the sons of the deceased employee was already in the employment, it was also noted that the family condition was not precarious. The petitioner was paid a total sum of Rs. 4,35,217/- as terminal dues on the death of her husband. Apart there from, the monthly income was Rs. 4253/- . Keeping in view these considerations, the application was duly rejected.

As per Standing Order No. 10/99 reference to which is made in the aforesaid note, the competent authority to decide the application for compassionate appointment is ADGP/IGP. Therefore application was rightly dealt with by IGP.

Nobody has inherent right to get the appointment on compassionate basis. The respondents have their scheme for compassionate appointment which is contained in Standing Order No. 10/99 and the case of the petitioner was considered within the parameters of the said scheme by IGP who is stated as competent authority to decide such cases.

5. Law on this point is well settled by series of judgments. Purpose would be served by referring to the following excerpts from the judgment of Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, :

"..... As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit... However, to this general rule... there are some exceptions carved out in the interests of justice and.... one such exception is in favor of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood... The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not give a member of such family a post much less a 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 offered to the eligible member of the family. The posts in Class III and

IV are the lowest Posts in non-manual 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. The provision of employment in such lowest posts by making an exception to the rule is justifiable and Valid since it is not discriminatory. The favorable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object to be achieved, viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It may be remembered in this connection that as against the destitute family of the deceased, there are millions of other families which are equally, if not more destitute. The exception to the rule made in favor of the family of the deceased employee in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the engendered by the erstwhile employment which are suddenly upturned.

Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above classes III and IV. That is legally impermissible."

This writ petition is accordingly dismissed Rule is discharged .

No order as to costs.