
(2019) 09 CAT CK 0074

In the Central Administrative Tribunal

Case No : Original Application No. 4382 Of 2017, Miscellaneous Application No. 4534 Of 2017

Varun Parashar And Ors

APPELLANT

Vs

Commissioner Of Police And Ors

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 09 CAT CK 0074

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

Bench : Single Bench

Advocate : Ajesh Luthra, Harvinder Oberoi

Final Decision : Dismissed

Judgement

MA No. 4534/2017 for joining together in a single

1. Application is allowed for the reasons stated therein.
2. The applicants have filed the present OA, seeking the following reliefs:-
 - a) Quash and set aside the impugned order dated 12.10.2017 placed at Annexure A/1 and
 - b) Direct the respondents to further consider and appoint the applicant to the post of Head Constable (Min.) on compassionate appointment basis.
 - c) Accord all consequential benefits.
 - d) Award costs of the proceedings; and
 - e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant.
3. It is the case of the applicant that father of the applicant no.1, while working as ASI in Delhi Police, died in harness after completing more that 31 years of

service. He still had about 9 years of service left. The applicant no.4, who is the mother of the applicant no.1, had applied on 28.02.2014 for appointment of applicant no.1 to the post of Head Constable (Ministerial) but this request was rejected on 22.12.2014. The rejection letter indicates that the applicant was rejected for the post of Constable (Executive) as he was short in higher. Being aggrieved, the applicant no.1 made another representation dated 13.02.2015 indicating that the initial request was for the post of Head Constable (Ministerial) but the same was again rejected on 02.12.2015 on the ground that as he did not fulfil the minimum height requirement for Constable (Executive). Thereafter the applicant no.1 made three requests dated 12.01.2016, 26.04.2016 and 03.10.2017 that his initial request was for the post of Head Constable (Ministerial) but not Constable Executive. This has again been rejected vide letter dated 12.10.2017 on the ground that the applicant is now over age and his request cannot be considered. Feeling aggrieved by the impugned order dated 12.10.2017, the applicant has filed the present OA.

4. In reply to the above, the respondents have filed their CA in which they have categorically submitted that after the demise of the husband of the applicant no.4, she had submitted an application on 28.02.2014 in connection with appointment on compassionate ground of his son, namely Varun Parashar to the post of HC (Mins) (applicant no.1 herein) which was considered by the Police Establishment Board for the post of Const. (Exe.) in its meeting held on 20.11.2014 but could not be approved due to the reason of short higher for the post of Const.(Exe). They have contended that later on the applicant no.4, mother of the applicant no.1, had made another request for appointment on compassionate ground, which was again reconsidered by the Police Establishment Board in its meeting held on 19.10.2015 but was rejected as there were more meritorious candidates than the applicant no.1. They have submitted that Police Establishment Board had scrutinized the cases of all applicants thoroughly on the basis of the instructions/guidelines of DOPT as well as Standing Order No.39/2014 but the case of the applicant no.1 had not been recommended as due to paucity of vacancies in rank of HC (Min.), the members of Police Establishment Board, for the sake of justice, tried to accommodate more eligible candidates to the initial rank, i.e. Const.(Exe.). They have thus prayed for dismissal of the OA.

5. After hearing both the sides and perusing the pleadings on record and also the details of the proceedings which were produced in compliance to the orders of the co-ordinate Bench of this Tribunal passed on 26.08.2019, which had directed the respondents to produce the necessary deliberation of Police Establishment Board when the case of the applicant was considered and when the case was initially rejected on 22. 12.2014 and 02.12,2015. Pursuant thereto, the respondents have produced the proceedings of the Meetings held on 20.11.2014 and 19.10.2015. We have examined the deliberations made in the meeting held on 20. 11.2014 in which case of the applicant no.1 against the post of HC (Min.) was considered but was rejected as he was only BA pass, whereas the candidates

whose cases were approved were more meritorious than the applicant as they were possessing the higher qualifications, like B.Tech, B.Com. However, the Police Establishment Board, in its meeting held on 19.10.2015, had considered the case of the applicant no.1 against the post of Ct. (Exe.) due to the paucity of vacancies in the cadre of in HC (Executive). His case was rightly considered for the post of Ct.(Exe.), but the same was rejected due to his being short in height as per the desirable standard. Hence, in view of the repeated consideration by the Police Establishment Board, we do not find any illegality in the decision taken by the respondents in this matter. In fact, we find that the Police Establishment Board had tried to accommodate the applicant of this OA by considering him for appointment against the post of Constable (Executive) when they found that there was paucity of vacancies in the cadre of HC (Exe.) for which he had applied for. The action of the Police Establishment Board to try and accommodate the applicant of this OA for a lower level vacancy of HC (Exe.) cannot in any way be termed as prejudicial to the interest of the applicant of this OA. The respondents have made considerable efforts to accommodate all the applicants for compassionate appointment and there is no ground to interfere with the decision taken by the respondents in this matter in the light of the *Nanak Chand v. Delhi Jal Board*, 2007(140)DLT 489 which reads as under:-

"14. The mandate of the Supreme Court is very clear from the aforesaid 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."

6. In view of above factual position, there is no merit in the OA and the same is accordingly dismissed. No order as to costs.