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

+ W.P.(C) 8861/2022 & C.M.No.26679/2022

KAVITA

..... Petitioner

Through: Mr. R.K. Saini and Mr. Dashmesh
Tripathi, Advocates

versus

DELHI HIGH COURT & ANR.

..... Respondents

Through: Ms. Padampriya, Advocate

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Reserved on : 19th April, 2023

Date of Decision : 15th May, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

MANMOHAN, J:

1. Present writ petition has been filed challenging the letter dated 26th May, 2022 passed by the respondents whereby the petitioner's application seeking compassionate appointment was rejected. Petitioner also seeks a direction to the respondents to appoint her to a suitable Group-D post on compassionate grounds.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner stated that Late Mr. Vijay Kumar, the husband of the petitioner, who was working as a 'Court Attendant' in this Court, had unfortunately expired on 28th April, 2021 at the young age of forty two (42) years, leaving behind his wife and three minor children. He stated that after the untimely death of her husband, the petitioner who is a house wife without any independent source of income found herself in great

financial distress. He further stated that upon coming to know of the existence of the scheme for grant of appointment on compassionate grounds to a dependent family member of a government servant dying in harness, the petitioner applied for the same vide application dated 1st October, 2021.

3. Learned counsel for the petitioner stated that after almost eight months, the respondent No.1's rejected the application of the petitioner in a callous manner vide the impugned letter dated 26th May, 2022. He stated that the impugned letter had been passed in violation of principles of natural justice as it was a cryptic and non-reasoned order. He submitted that the action of the respondents of rejecting the application of the petitioner was violative of Article 14 of the Constitution of India.

ARGUMENTS ON BEHALF OF THE RESPONDENTS

4. *Per contra*, learned counsel for the respondents stated that the application of the petitioner along with three other representations was duly considered by the Committee for appointment of officials of High Court in its Meeting held on 13th May, 2022. She contended that as recorded in the Minutes of the aforementioned Meeting, a total of forty one (41) posts had already been filled by way of compassionate appointment which is much above the quota of thirty one (31) seats (5% of 617 direct recruitment posts) available for appointment on compassionate grounds. The relevant portion of the Minutes of Meeting dated 13th May, 2022 is reproduced hereinbelow:-

“Perused the office note, Registry has informed that the earlier representation dated 08.07.2021 of Ms. Maheshwari Devi was rejected in the meeting of the Selection Committee held on 20.09.2021 for want of vacancy inasmuch compassionate appointment can be made upto 5% of the total direct recruitment posts and that there are presently total 617 posts of Court Attendant and equal status posts for direct recruitment, 5% of which comes to 31 posts. However, it is noted that on earlier occasions, inadvertently 962 posts (inclusive of 617 posts for direct recruits and 345

posts for appointment on co-terminus basis) which comes to 48, was taken into compassionate grounds. Accordingly, a total of 41 posts have already been filled up on compassionate ground over and above of 31 posts available under 5% quota of 617 direct recruitment posts. Thus there are 10 surplus/excess compassionate appointments. In view of the above position, since there is no vacancy available for making appointment on compassion ground, all these representations are recommended to be rejected.”

5. She emphasised that the application of the petitioner was rejected as there was no vacancy available for making an appointment on compassionate grounds.

COURT'S REASONING

COMPASSIONATE APPOINTMENT IS AN EXCEPTION TO THE RULE THAT APPOINTMENT SHOULD BE MADE ONLY ON THE BASIS OF MERIT.

6. Having heard learned counsel for the parties, this Court is of the view that compassionate appointment is an exception to the rule that appointment should be made only on the basis of merit. The object of compassionate appointment is to enable a family of the deceased to tide over the crisis of financial destitution and to help it to get over the emergency.

7. Consequently, it is well settled law 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. [See: *Umesh Kumar Nagpal vs. State of Haryana & Ors. (1994) 4 SCC 138, Union Bank of India & Ors. vs. M.T. Latheesh, (2006) 7 SCC 350, General Manager, State Bank of India & Ors. vs. Anju Jain, (2008) 8 SCC 475 and State Bank of India & Anr. vs. Somvir Singh, (2007) 4 SCC 778]*

SINCE THERE ARE TEN SURPLUS/EXCESS COMPASSIONATE APPOINTMENTS, THE PRESENT WRIT PETITION IS DISMISSED

8. From the Minutes of Meeting dated 13th May, 2022, it is apparent that there is no vacancy available for making appointment on compassionate ground. In fact, due to an inadvertent error, a total of forty one (41) posts have been filled up on compassionate grounds over and above the thirty one (31) posts available under the five percent (5%) quota of six hundred and seventeen (617) direct recruitment posts. Hence, there are already ten (10) surplus/excess compassionate appointments.

9. Consequently, this Court is of the view that the impugned decision taken by the respondents is well-reasoned and in accordance with law.

10. Accordingly, the present writ petition along with pending application being bereft of merit is dismissed.

MANMOHAN, J



SAURABH BANERJEE, J

MAY 15, 2023
KA/TS

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