

Delhi High Court

Smt. Bimla Devi vs Municipal Corporation Of Delhi on 2 December, 2004

Equivalent citations: 115 (2004) DLT 675

Author: M Sarin

Bench: M Sarin

JUDGMENT Manmohan Sarin, J.

1.The petitioner who had completed her senior secondary schooling and belongs to Jat community was appointed as Mali on 14.8.2000. It was a case of compassionate appointment. Petitioner on account of her qualifications, says that she meets the eligibility condition for the post of LDC. It is the petitioner's case that work of provident fund calculations, which is the duty assigned to a clerk, was being got done from her during the period from 19.10.2000 to 13.7.2004 Petitioner's case is that though performing the duties of clerk and being possessed of requisite qualifications for the post of LDC and despite an LDC position, being available, petitioner had been continued on the post of Mali.

2. It is urged that upon petitioner filing the writ petition in this Court, the respondents immediately thereupon assigned the job of Mali to the petitioner. Petitioner has also produced on record the order dated 19.10.2000, posting the petitioner in Accounts Department.

3.The Court vide order dated 20.10.2004 while issuing notice and without prejudice to the rights and contentions of the parties, had called upon respondents to consider if a position was available, where petitioner could be permitted to work as LDC on work-charge basis. Petitioner thereafter complained about the respondents treating the order as a request and not being acted upon by the respondent. The Dy. Director (Horticulture) was asked to file an affidavit. The Dy. Director (Horticulture) Najafgarh Zone has filed an affidavit stating therein that there is no work charge vacancy available for the post of LDC in his zone. Further, he is not aware of any other vacancy in other zones, which would be in the knowledge of Central Establishment Department of MCD.

4.I am not persuaded to accept petitioner's submission that the petitioner being eligible and having the qualifications for the post of LDC, should have been so appointed. In case of compassionate appointment there are number of circumscribing factors such as the percentage of posts that can be allocated for compassionate appointment, the vacancies which are available for respective posts, number of applicants, their respective circumstances entitling them to compassionate appointment and their respective merits and qualifications. In such a situation, all persons who are eligible for the post may not get the same and have to accept a post lower in rank. The purpose and intent of compassionate appointment is to give immediate relief and succour to the bereaved family.

5.It appears that in these circumstances, the petitioner had been offered the post of Mali on compassionate appointment which was accepted by her. The petitioner cannot now agitate and state that she should have been considered and appointed as LDC for which allegedly vacancies had arisen. However, considering that the petitioner was from October,2000 performing clerical functions and has also gained some experience, the Director (Personnel) MCD is directed to consider if petitioner can be accommodated on work charge basis in the post of LDC, which may be

available in the Horticulture Department, subject to availability of vacancies. Petition is disposed of with aforesaid direction.