

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A.No.94/1994

New Delhi, this the 25<sup>th</sup> day of August, 1994.

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Smt. Swaraj Rani  
w/o late Shri Ishwar Lal  
r/o Type II/220, Press Colony,  
Ring Road, Mayapuri, New Delhi.

2. Shri Chander Prakash,  
s/o late Shri Ishwar Lal  
r/o Type II/220, Press Colony  
Ring Road, Mayapuri, New Delhi. ..Applicants.

(By advocate Shri O.P.Sood)

Vs.

1. Union of India  
through Director Printing,  
Nirman Bhawan, New Delhi.

2. Manager,  
Govt. of India Press,  
Ring Road, Mayapuri, New Delhi. ..Respondents.

(By Advocate Shri E.X.Joseph)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

The applicant died in harness. <sup>when</sup> He was working as a Binder in the Govt. of India Press, Ring Road, Mayapuri, New Delhi on 4-6-1992. Compassionate appointment has been sought in favour of applicant No.2 who is son of the deceased employee.

2. The deceased employee has been allotted government accommodation. The accommodation has been retained by the family even after death of the employee. On 23-4-1993 a memorandum has been issued to applicant No.1 stating that the accommodation should be vacated on 31-5-1993 failing which damage rent will be charged thereafter.

3. This O.A. has been filed praying for the following reliefs:-

(a) To issue appropriate Writ, direction, order commanding the respondents to

provide employment to Applicant No.2 on class IV post immediately and within scheduled time.

(b) To set aside the Memo No.RRP/Estate/II/220/07/14 dated 23-4-1993 to the extent of imposition of damages rent @ Rs.1380/- p.m. and initiating eviction proceedings and passing further orders to charge normal licence fee of the quarter No.II/220 Press Colony, Mayapuri, New Delhi.

4. The learned counsel for the applicant mentioned the indigent circumstances of the family in that with the passing away of the earning member of the family comprising the widow aged 46 years, a son of 22 years and two unmarried daughters aged 19 and 16 years have been left destitute. The family is eligible only for the minimum family pension for 7 years from the date of death, Rs.555/- as pension plus relief thereon has been sanctioned to the family. The settlement dues are meagre and have been mostly used to discharge the various liabilities and loan incurred for treatment of the deceased employee. In the circumstances, compassionate appointment has been sought by applicant No.2 who had been interviewed in January, 1993 and had been advised in September, 1993 that his name has been included in the waiting list for compassionate appointment. It is argued that the condition of the family is pitiable and employment on special priority is merited. Certain court judgements alleging such employment were relied upon.

5. As regards the impugned order regarding vacating of the accommodation/charging of damage rent reference was related to the orders passed by the Hon'ble Supreme Court in Writ Petition (C) No.918 of

1991 in Smt. Shipra Bose & Anr. Vs. UOI & Anr.

decided on 16-11-1992 wherein two years time to vacate the accommodation were given unless in the meanwhile compassionate appointment for the son <sup>was</sup> ~~is~~ granted,

6. In the reply the respondents have stated that as per the orders of the Principal Bench in a number of cases, a common list has been prepared for compassionate appointment for engagement by the respondents. The name of the applicant No.2 figures in the list and <sup>he</sup> ~~will~~ <sup>is</sup> be considered for appointment in <sup>his</sup> ~~its~~ turn.

7. Having heard both the counsels, I note that the respondents had registered the name of applicant No.2 for consideration of compassionate appointment in ~~its~~ turn as per his position in the waiting list. Keeping in mind the latest orders of the Hon'ble Supreme Court on the subject of compassionate appointments ~~I am~~ <sup>I am</sup> ~~not in~~ <sup>not</sup> ~~any~~ position <sup>to</sup> ~~to~~ direct respondents to appoint the applicant No.2. The only direction that can be given is for consideration of the case keeping in mind the difficult position of the family, particularly the two unmarried sisters of applicant No.2. The respondents are directed to consider whether any priority can be given in this case in view of the totality of the circumstances, even over those who are already in the waiting list.

8. As regards the accommodation, I note that the order regarding vacation on 31-5-93/charging of damage rent thereafter was passed on 23-4-93 but this order has been challenged in this O.A. filed on 20-12-93. The orders passed by the Hon'ble Supreme Court in the circumstances of the case of Shipra Bose have had to be presumed to have been passed under the special powers available with the Hon'ble Supreme Court under article 142 of the Constitution of India.

(13)

Hon'ble Supreme Court have held that only decisions of question of law are to be followed by the lower courts. In another case, namely LIC Vs. Mrs. Asha Ramachander Ambekar and Anr. (JT (1994) 2 SC 183), Hon'ble Supreme Court have held that the courts are to administer law as they find it, however, inconvenient it may be. In the circumstances, I find it difficult to interfere with the impugned memorandum dated 23-4-93.

9. The O.A. is thus disposed of with the only direction that respondents may consider whether any priority can be given for compassionate appointment in this case in view of the totality of the circumstances, even over those who are already in the waiting list.

No costs.

P. J. Dharmalingam

(P.T. THIRUVENGADAM)  
Member(A)

1 M