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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

MA-3141/2000
IN
O.A.NO.1876/2000

Monday, this the 1st day of January, 2001

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Smt. Rupmati, W/O Late Shri Gulzar
Singh, R/O Village Ata Kala Majra,
Tehsil Gabhana, Zila Almora (UP).

.....Applicant.

(Advocate:- Sh. R.Krishnamorti)

VERSUS

Director (Horticulture), Govt. of N.C.T.
of Delhi, 11th Floor, MSO Bld.
I.P.Estate, New Delhi.

....Respondent

O R D E R (ORAL)

MA-3141/2000

I find that the OA has been disposed of earlier by way of dismissal due to default and non-prosecution. The learned counsel appearing for the applicant has filed another MA being MA-3141/2000 seeking restoration of the OA. I have considered the matter and for the reasons given in the aforesaid MA, the order dated 27.11.2000 is recalled and the OA-1876/2000 is restored to file.

OA-1876/2000

The learned counsel for the applicant has placed before me the circumstances of acute financial distress being experienced by the applicant after the death of her husband who was a Raj Mistri in the Deptt. of Horticulture and who unfortunately died in harness on 17.8.99. The applicant had approached the respondent for compassionate appointment but the request was rejected by the respondent vide its letter dated 7.1.2000. I have perused the aforesaid rejection letter

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which does not show any application of mind. The same provides as follows:-

"..The comments of Superintendent Engineering on the case are given hereunder.

Because the amount of pension of Rs.1863/- is the dearness allowance which is over the standard of poverty. So the appointment could not be given on compassionate grounds as guided accorded to the Memorandum of Directorate General (Building) dated 25.10.99."

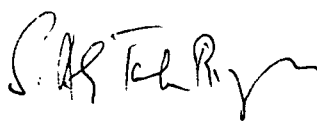
2. The aforesaid clearly shows that the respondent has not even cared to forward the application to the competent authority which in this case happens to be the Chief Engineer, PWD. The application for compassionate appointment has been disposed of at a lower level in terms of comments offered by the Superintendent Engineer. Clearly the respondent has failed to apply his mind in this case at the appropriate level and has not considered the basic issue which is the acute financial distress arising from the death of the employee. A sum of Rs.1863/- is being paid to the applicant by way of pension/dearness allowance. The respondent appears to have come to the conclusion that this much of monthly pension/dearness allowance is sufficient to maintain the family of the deceased employee consisting of the applicant and four other dependents. I am disappointed to find that the respondent have found Rs.1863/- sufficient for the maintenance of a family consisting of five members at the rates of inflation currently prevailing. Thus, there is lack of application of mind in all respects and the matter must be reviewed so as to enable the applicant to secure justice.

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3. In the circumstances of this case and having regard to a patently unreasonable order passed by the respondent who himself is not competent to pass such orders, I am inclined to think that the ends of justice would be met in this case by disposing of the OA by directing the respondent to review and reconsider the matter carefully and precisely in terms of the Govt. of India's guide-lines on the subject and pass a reasoned and speaking order touching on each aspect of the matter. This they should do as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order. If the orders passed are found to be adverse to the applicant, she would be free to approach the Tribunal again.

4. The OA is disposed of as above at the admission stage itself. No costs.

5. Registry is directed to send the copy of the OA alongwith this order.


(S.A.T. Rizvi)
Member (A)

/sunil/