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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO.366/2000

New Delhi. this the 31st day of October, 2000

Hon.ble Mr. S.A.T. Rizvi. Member(A)

1. Mrs. Zulekha Begam w/o late Sh. Hazrat Hussain.
H-12. Sarojini Nagar. New Delhi-110023.

2. Sh. Mahtab Alam s/o late Sh. hazarat Hussain.
H-112. Sarojini Nagar. New Delhi-110023.

....Applicants

(By advocate:Sh. R.K.Shukla)

VERSUS

1. Govt. of N.C.T. of Delhi through Chief Secretary
5. Sham Nath Marg. Delhi-110054.

2. Director of Education(Estt. I Branch)
Room No.211-D. Block No.10. Old Sectt.
Delhi-110054.

.....Respondents

(By advocate:Sh. George parckel)

ORDER(ORAL)

Heard the Ld. counsel on either side. The OA has been filed to secure appointment for the applicant's son from the deceased employee in place of the said deceased employee who died in harness on 20.1.99. The matter was considered by the respondents who have rejected the claim on the ground that the financial condition of the family of the deceased employee is sound.

The Ld. counsel for the respondents has averred that the matter was properly considered by the respondents in the light of the guidelines on the subject and the respondents have, in particular, gone into the aspect of financial soundness of the deceased employee's family. He has stated that two of the sons of the deceased employee are working abroad, one in Saudia Arab and the other in Kuwait, both earning sufficiently so as to be able to

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- 10 -

assist the family of their late father. In addition, the widow/applicant received an amount of 4.41 lacs approximately by way of pensionary benefits following the death of the employee in question, and she is also receiving Rs.3050 by way of family pension per month. The Ld. counsel for the applicant has not disputed these facts but has contended that since the two sons employed abroad do not assist the deceased employee's family in any way ~~and therefore~~, it cannot be argued that the family of the deceased employee is not suffering from financial hardship. The Ld. counsel for the respondents has contended that if the aforesaid two sons do not find it proper to assist the deceased employee's family, there can be no guarantee that the 3rd son, application No.2 in this OA, will be willing to assist the family financially on securing employment with the respondents. I am inclined to agree with the views of the Ld. counsel for the respondents on this question *also*.

The Ld. counsel for the respondents has placed reliance on the judgement dated 16.4.98 of this Tribunal in Shanti Devi vs. Union of India(OA 2796/97) in which it has been held as follows:-

"Compassionate ground appointment is not a matter of vested right and it is a relaxation and deviation from the normal mode of recruitment to public posts. It is to be resorted only in order to help the family of the deceased official to overcome the immediate problem arising out of the death of the bread earner..."

He has also placed reliance on the instructions contained in OM dated 9.12.93 issued by the DoPT in the light of the Supreme Court's judgement dated 8.4.93 in Auditor General of India vs. Sh. Ananta Rajeshwara Rao, the relevant portion of which has been reproduced in the respondents reply and which is as follows:-

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-3-

-11-

"In case where any member of the family of the deceased is already in employment and is not supporting the other member of the deceased, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the deceased so that the facility of appointment on compassionate ground is not circumvented and misused by making grounds that the members of the family already employed is not supporting the family."

In the background of the facts and the circumstances of this case, observations made in the preceding paragraphs and the judgements of this Tribunal together with DoPT instructions on the subject, I am inclined to take the view that this OA is devoid of merit and has no force.

In the result, the OA is dismissed without any order as to costs.

2

(S.A.T.Rizvi)

Member(A)

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