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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

...

O.A. 371 / 87

Date of decision: 1.2.1989.

Smt. Narinder Kaur & Another	...	Petitioner
Vs.		
Union of India	...	Respondents.
For the petitioner	...	Shri G.N. Oberoi, Counsel
For the respondents	...	Shri P.P. Khurana, Counsel

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA, VICE CHAIRMAN (ADMN.)

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (JUDL.)

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?

(Judgment of the Bench delivered by Hon'ble  
Shri B.N. Jayasimha, Vice-Chairman(A).)

JUDGMENT (ORAL)

The first applicant is the widow of late Shri Bachan Singh, who was working as Supervisor B/S Grade I and applicant no. II is her son. Shri Bachan Singh died on 17.6.84 in harness. Consequent upon his death, there being no earning member in the family, the family is in great financial distress. In view of this, the first applicant applied to the respondents to employ the second applicant in their department on compassionate grounds.

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2. Admittedly, the respondents offered to the second applicant the post of Lower Division Clerk (LDC) in their office through Memo. dated 4.2.85 (vide Annexure A-4, page 16 of the Paper-Book). However, the second applicant did not

accept the offer of appointment on the ground that in similar cases of deceased employees, the respondents had offered the post of Supervisor B/S II (Group 'C' post) to their dependents. It is the grievance of the applicants that a similar treatment was not meted out to the second applicant.

3. In view of the above, the present application has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to appoint the second applicant to the post of Supervisor B/S II in conformity with the procedure contained in the letter dated 4.3.87 at Annexure A-3 (page 15 of the Paper-Book). The second applicant is eligible for such appointment under the Recruitment Rules and the post of Supervisor B/s II was offered to other similarly situated persons.

4. The respondents have stated in their counter affidavit that the second applicant, who was offered appointment as LDC, did not accept the offer. As regards the appointment of certain other persons as Supervisor B/s Grade II, the respondents have stated that these appointments were made since vacancies were available in the post of Supervisor B/S Grade II at the relevant time. They have also stated that in the post of Supervisor B/s Grade II no vacancies exist since 1984. In fact, <sup>in</sup> the category of the post of Supervisor B/s Grade II, there are more persons than the sanctioned strength.

5. We have considered the rival contentions of both parties and have heard the learned counsel at length. The procedure to be followed for compassionate appointments of sons/daughters/near relatives of deceased government servants

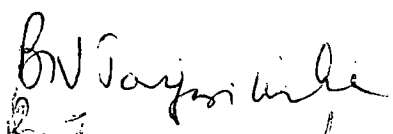
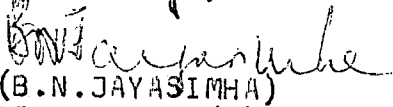
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is contained in the Office Memorandum issued by the Department of Personnel & Administrative Records dated 25th November, 1978. According to this O.M., when a Government Servant dies in harness, leaving his family in immediate need of assistance, in the event of there being no other earning member in the family, the Ministries/Departments are competent to appoint the eligible dependent members of the family to Group 'C' or Group 'D' posts depending on the qualifications possessed by the persons concerned. It is further stipulated that in making such appointments, the number of posts including the reservations made in various categories should not exceed 50 % of the vacancies in the calendar year. In view of the fact that the department has already surplus Supervisors B/s Grade II, the claim of the applicant for appointment in that grade on compassionate grounds cannot be sustained. In this view of the matter, we are of the opinion that there is no merit in the present application and <sup>it</sup> has to be dismissed.

6. However, in the facts and circumstances of the case, we deem it proper to direct the respondents to offer the post of LDC to the applicant afresh with the stipulation that he should accept the same within one month of the receipt of the offer. We, however, make it clear that the acceptance of the post of LDC by the second applicant or our order will not preclude the respondents from offering to the second applicant the post of Supervisor B/S Grade II as and when <sup>as a vacancy</sup> it becomes available.

7. The application is accordingly <sup>& disposed of.</sup> ~~dismissed~~. There will be no order as to costs.

  
(P.K. KARTHA)  
VICE-CHAIRMAN (J)

  
  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN (B).