

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1417/1990
T.A. No.

199

DATE OF DECISION 30.8.1991.

<u>Smt. Asha Devi Srivastava</u>	Petitioner
<u>Shri R.P. Oberoi</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Others</u>	Respondent
<u>Mrs. Raj Kumari Chopra</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

JUDGMENT

(by P.K. Kartha, Vice Chairman (J))

The grievance of the applicant relates to her non

appointment on compassionate grounds on the death of her husband who had worked in the office of the respondents as a Machineman Grade 'B'. Her husband died in harness on 4.1.1988 at the age of 52 years 4 months. The deceased had left behind the widow, one daughter and her son. The children are undergoing education and are stated to be dependent on the applicant. The daughter is aged about 22 years, is unmarried and she is studying for graduate course. The son is aged 15 years and is studying in Class X.

2. The applicant has been sanctioned family pension at the

following rates:-

<u>Period</u>	<u>Amount of Pwail Pension</u>
5.1.1988 to 4.1.1995	Rs. 675/- p.m. (+ T.A. of Rs. 122/- p.m.)
5.1.1995 onwards	Rs. 405/- p.m.

3. The applicant has stated that her late husband has not left any immovable property and that the Pwail is dependent for livelihood on the above amount of pension and the interest on terminal benefits received by her. There is no ~~XXXX~~ earning member in the family.

4. The deceased husband of the applicant had been allotted Government accommodation bearing No.4/2, Connaught Avenue Road, New Delhi and the applicant and her children are residing in the said accommodation. She has stated that she is being charged market rent for the said accommodation at the rate of Rs.493/- p.m. Thus a substantial portion of pension goes towards payment for the accommodation occupied by her and her children.

5. The applicant applied for a job of a Peon in the office of the respondents on 8.2.1988. This was followed by a representation to the Hon'ble Minister for Urban Development on 28.3.1989. The respondents have not, however, acceded to her request.

6. The respondents have stated in their common affidavit that the request of the applicant was considered by the competent authority and rejected on the ground of non availability of vacancy in their office. Besides this, no further staff is to be added in their office due to

modernisation of the Government of India Press. The strength of the Press has been reduced from 2385 to 1072. They have stated that even if a vacancy is available in future in the category of Peon/Binder Assistant, the case of the applicant has to be considered on merits along with other similar cases.

7. We have carefully gone through the records of the case and have considered the matter. ^{It is not} the ~~stand~~ ^{of} the respondents ~~is~~ that the case of the applicant is not a deserving one. Their plea is that there is no vacancy available. The applicant has relied upon the decision of the Supreme Court in the case of Smt. Phoolan K. Union of India & Others, AIR 1991 SC 469 which has related to the Government of India Press where the husband of the applicant before us had worked. It was observed that the Supreme Court had repeatedly requested the learned counsel appearing on behalf of the Union of India to consider the provisions that when an employee, dies in harness, one of his legal representatives will be provided with an employment on compassionate grounds. The stand of the Union of India was that it was not possible to provide such employment in the Government of India Press where the husband of the appellant was previously employed. The Supreme Court followed its

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earlier decision in Smt. Suchma Gosain Vs. Union of India,

AIR 1987 SC 1976 where it has held as under:-

" It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicants.

8. In view of the above, the Supreme Court directed the respondents to take immediate steps for employing the second son of the appellant in a suitable post commensurate with his educational qualifications within a period of one month from the date of the order. The appellant was also permitted to stay in the said quarter where she was residing with the members of her family.

9. According to the applicant, the aforesaid consideration apply equally to the present case. It is pertinent to observe that the Supreme Court had stated in Suchma Gosain's case that "if there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant".

10. The Government of India have their presses not only at Kinto Road but at various other places. Of late, it has come to our notice that for some reason or other there have been several deaths in these presses and several applications filed by the legal representatives for appointment on compassionate grounds are pending in this Tribunal. It is not known whether any study of the hazards attendant on working in the Press has ever been made. In case the deaths

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is due to hazards in the ^{working} the, the cases for compassionate appointment require special consideration, notwithstanding the fact that due to modernisation there has been reduction in the strength of staff.

11. Therefore, in our considered opinion, the decisions of the Supreme Court relied upon by the applicant cannot be blindly applied to all cases for compassionate appointment in the Government of India Press located at various places ^{of posts} in the country. There is only a small percentage ^{of posts} for such appointments under the administrative instructions issued by the Government (i.e. 1% only). In the fitness of things, we feel that the respondents should evolve an appropriate scheme for considering the requests made for compassionate appointment at the various Presses. A panel of names of persons who deserve appointment on compassionate grounds should be prepared and appointment should be made strictly in accordance with the panel so prepared in the available vacancies and suitable vacancies. In our view, the case of the applicant is a deserving one.

12. We, therefore, remit the case to the respondents for their further consideration in the light of the observations made hereinabove. The case of the applicant should also be considered afresh along with other cases and an appropriate decision be taken in the matter within a

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period of 4 months from the date of communication of this order. In the meanwhile, we direct that the applicant shall not be dispossessed from the Government property in her possession and that she would be liable to pay only the normal licence fee from the date of death of her husband till the ^{respondents} take a decision in her case, as directed above.

There will be no order as to costs.

Duckham 30/8/91.
(D.K. CHAKRAVORTY)
MEMBER (A)

an 30/8/91
(F.K. KUMAR)
VICE CHAIRMAN (J)