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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 1569/90 199  
~~Ex. No.~~ with MP 1834/90

DATE OF DECISION 15.03.1991

<u>Ms. Kishni Devi</u>	Petitioner
<u>Shri J.P. Verghese</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India &amp; Others</u>	Respondent
<u>Shri M.L. Verma</u>	Advocate for the Respondent(s)

**CORAM**

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

(of the Bench delivered by Hon'ble Mr. D.K. Chakravorty,  
Administrative Member)

The applicant, is the widow of late Shri Ram Chand, who had worked as Mason in the Electrical Division of the Central Public Works Department, New Delhi, till he passed away on 30.11.1982. The applicant has prayed that her son may be appointed in a suitable post in the office of the respondents on compassionate grounds. This is being resisted by the respondents.

- D* 2. The deceased left behind him the following dependent

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family members:-

- "(i) Smt. Kishni - Wife - 35 years
- (ii) Shri Desh Raj - Son - 21 years
- (iii) Ka. Kanti Devi - Daughter - 17 years
- (iv) Lal Singh - Son - 14 years
- (v) Smt. Jayati - Widowed - 70 years".  
Mother

3. In addition to the above, the deceased Government servant has two other sons - Shri Dal Chand and Shri Ram Gopal who are staying separately from the family.

4. After the death of Shri Ram Chand, the widow approached the Executive Engineer, CPND, with an application dated 21.12.1981 for appointing her son Shri Desh Raj as a Khallasi on compassionate ground. This request was rejected on 30.9.1983.

5. The applicant again made representations on 30.11.1983 and 10.4.1984. She prayed that in case they did not find Shri Desh Raj fit for such appointment, she herself may be considered for a suitable appointment. She also added that both her elder sons were living separately and <sup>are</sup> not supporting the family financially or otherwise.

6. The respondents again rejected the representation on 13.11.1987. The applicant again approached the respondents on 8.4.1988 and requested that her younger son Shri Lal Singh be appointed on compassionate grounds. This was also turned down by them on 13.4.1989.

(b)

7. The applicant has alleged that similarly placed persons have been given the benefit of the instructions issued by the Government regarding compassionate appointment of dependent persons. He has alleged that this is an instance of violation of Articles 14 & 16 of the Constitution.

8. The applicant has also filed MP 1384/90 for condoning the delay in filing the application.

9. The respondents have stated in their counter-affidavit that the applicant does not deserve any appointment of herself or any of her sons on compassionate grounds. According to them, the question whether a person may be appointed on compassionate ground or not is within the discretion of the Administration. In this context, they have relied upon some judicial pronouncements\*.

10. They <sup>respondents</sup> have also stated that three sons of the deceased Government servant are in employment.

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\* 1990(2) SLJ (CAT) 662; 1990 (1) ATC (CAT) 328; 1990(1) ATC (CAT) 43; 1989(1) SLJ (CAT) 127; and 1989(11) ATC 803.

(A)

In this context, they have given the following particulars:-

S.No.	Name	Relationship with the employee & age	Employed or not particulars of employment and emoluments
1.	Sh. Dal Chand	son 26 years	Working as tailor income Rs.20/- per day.
2.	Sh. Ram Gopal	son 25 years	Vegetable vendor income Rs.15/- per day.
3.	Sh. Desh Raj	son 24 years	Labourer income Rs.10/- per day."

11. The respondents have also stated that the request for appointment on compassionate grounds made by the applicant was considered after taking all the aspects of the case into consideration such as the assets, liabilities, income, details of the cons and their income etc. They have stated that the family of the deceased Government servant have received the following by way of pension and retirement benefits:-

"(1) GPF Rs.4648/- (2) DCRS Rs.5945/-  
(3) Employees Insurance Rs.5,000/- & family pension @ Rs.151/- per month with effect from 1.12.1981 to 30.11.88 and thereafter @ Rs.91/-per month".

12. We have carefully gone through the records of the case and have considered the rival contentions. The applicant belongs to the Schedule Caste community.

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In our opinion, the delay involved have been satisfactorily explained by the applicant. He, therefore, allow MF 1834/90 and condone the delay in filing the application. The stand of the respondents that the three sons of the deceased Government servant are in employment is not very convincing. The first son, Shri Dal Chand is working as a tailor. The second son, Shri Lam Gopal is stated to be a vegetable vendor. They are not in Government service or in the service of any private employment. They are pursuing what may be called self-employment. The <sup>estimates of</sup> daily income of Rs.20/- by the first son working as a tailor and Rs.15/- by the second son as a vegetable vendor, are only ~~xxxxxxx~~ guess work by the respondents. The respondents have also not controverted the version of the applicant that the first two sons are living separately and that they are not giving any support to the family of the deceased. The fact that the widow and her children somehow managed to live during all these years, does not by itself justify rejection of the request for appointment on compassionate grounds.

Similarly, the fact that the family has received some terminal benefits is also not sufficient to hold that the request for appointment on compassionate grounds is not justified.

13. On a careful consideration of the rival contentions, we are of the opinion that this is a fit case in which the applicant deserves compassionate appointment and that the respondents should be directed to consider the case of the applicant for such appointment. Accordingly, the respondents are directed to consider engaging Shri Lal Singh, the youngest son of the applicant in a suitable post commensurate to his educational qualifications. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order.

There will be no order as to costs.

*Duckeh*  
(D.K. CHAKRABORTY) 15/3/91  
MEMBER (A)

*...*  
(P.K. KARTI) 15/3/91  
VICE CHAIRMAN (J)