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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2131/90

Date of decision: 14.8.92

Smt. Asharfi Devi Applicant

Versus

Union of India through Respondents
Secy., Ministry of Human
Resource Development and
Another.

For the Applicant Shri J.P. Verghese, Advocate

For the Respondents Shri P.P. Khurana, Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant is the widow of late Shri Jhaman Lal, who had worked as a Garden Attendant in the Archaeological Survey of India (Respondent No.2) at Agra. After prolonged illness, he died on 14.11.1986, while in service, leaving behind the applicant, who is a widow, and four sons aged 31 years, 25 years, 20 years, and 17 years respectively and a married daughter of 23 years ^{of} *a* age. The applicant

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has prayed in this application that the respondents be directed to appoint her son, Shri Ram Gopal, to the post of Garden Attendant or any other suitable post on compassionate grounds.

2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties.

3. The case of the applicant in brief is that ~~xxxx~~ ^a her first son ^a ~~aged~~ ^a 31 years and ^a 25 years are married and they are living separately. The other two younger sons - aged 20 years and 17 years - are unemployed and are entirely dependent on her. She has stated that the first two sons who are married, have deserted the family and that they were living separately. They are not providing any help for the maintenance of the family. She is getting only a meagre pension of Rs.400/- p.m. which is not sufficient to support the family. She has no movable or immovable property. ^{has a} She further stated that she had incurred debts on account of the marriage of her daughter which have not yet been cleared. It is in these circumstances that she had approached the respondents to appoint her third son, Shri Ram Gopal, on compassionate grounds. She has stated that Shri Ram Gopal is the only member in the family who can support her and her other minor son. The representation made

by her in this regard has been turned down by the respondents without giving any reasons.

4. The respondents have ^{given} a different version. According to them, the Deputy Superintending Horticulturist, Archaeological Survey of India, Horticulture Division No.1, Agra, had already employed on humanitarian grounds the eldest son of the deceased Government servant, Shri Beni Prasad, on regular basis and his second son, Shri Het Singh, on casual basis, so as to provide necessary help to the ailing late Jhaman Lal. Later on, the second son, Shri Het Singh, was also regularised on 25.4.1987. The respondents have not stated as to whether the first son was appointed on regular basis before or after the death of his father on 14.11.1986. However, the second son, who had been working on casual basis, was regularised on 25.4.1987, which was after the death of his father. The respondents have also stated that the family of the deceased Government servant has been given all dues such as Insurance amount, gratuity, etc. They have not, however, indicated the quantum of the amount paid to the family on this account.

5. Admittedly, the first two sons of the applicant are working as Garden Attendants in the Archaeological Survey of India at Agra. The prayer in the present

application is that the third son should also be appointed to such a post on compassionate grounds. The case of the respondents is that ^{when} ~~the~~ two sons of the deceased have already been employed on humanitarian grounds, there is hardly any justification for acceding to the prayer made by the applicant. The respondents have ~~also~~ ^α stated that her two other sons are employed and are not jobless. They have also submitted that the respondents are under no obligation to clear the debts incurred by the Government servant.

6. The learned counsel for the applicant argued that the respondents ought to have disclosed the reasons for rejecting the request for appointment on compassionate grounds and in this context, he relied upon the decision of the Madras Bench of this Tribunal in Smt. Mariammal Vs. Union of India & Another, 1991 (16) A.T.C. 293. The facts of that case are, however, distinguishable.

7. The learned counsel for the applicant also relied upon the judgement of this Tribunal in Smt. Roshanara Begum Vs. Union of India, 1990 (3) SLJ, CAT 403, to which one of us (P.K. Kartha) was a party. That case related to the widow of a deceased Government servant belonging to the Mohamadan community. The argument of the respondents that three sons of the applicant were employed in Government service, was not accepted by the Tribunal on the ground that there was no such thing as a

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joint Mohamadan family. The facts of that case also are clearly distinguishable. The applicant before us does not belong to the Muslim community. 2

8. In the instant case, as two sons of the deceased Government servant have been employed as Garden Attendants, one of whom was regularised after his death on humanitarian grounds, it cannot be said that the respondents have been unsympathetic to the family of the deceased Government servant. There is no guarantee that the third son, on acquiring a family of his own, will not go the same way as that of his two elder brothers. In that event, the applicant may come up with a request for appointment of the fourth son on compassionate grounds alleging that the third son has also deserted the family. In our opinion, appointment on compassionate grounds cannot be stretched in this manner.

9. In the facts and circumstances of the case, we are of the opinion that the applicant is not entitled to the relief sought in the present application. This will not, however, preclude the respondents from considering the case of Shri Ram Gopal, the third son of the deceased Government servant, for appointment as Garden Attendant on casual basis or on regular basis along with other candidates who have applied for the same whenever vacancy arises. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 14/8/82
Administrative Member

P.K. Kartha
(P.K. Kartha)
Vice-Chairman (Judl.)
14/8/82