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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

D.A.No. 2424/92.

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DATE OF DECISION 22.7.1993

SHRI JAI PARKASH & ANOTHER

Petitioner

SHRI D.R. GUPTA,

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & OTHERS

Respondent

Advocate for the Respondent(s)

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The Hon'ble Mr. B.S. Hegde, Member (Judicial).

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Delivered by Hon'ble Shri B.S. Hegde, Member (Judicial) 7

The Applicant No. 1 is the son and the applicant No. 2 is the widow of late Shri Roshan Lal, who was employed in Government of India Press, Minto Road, New Delhi. The

late Shri Roshan Lal died in harness on 22.8.1991 while in service of the respondents as Daftry. The applicant No. 1

has applied for compassionate employment to the respondents on the representation made by his mother, Smt. Krishna Devi vide dated 9.9.1991 and she was informed vide Memo. dated

13.3.1992 that there is no vacancy in the category of Computer Operator/ Copy Holder/ L.D.C. against which her son can be considered for employment on compassionate ground. Her case can be considered as and when a vacancy will occur.

2. The deceased was allotted a Government accommodation bearing No. 72, Press Road, Minto Road, New Delhi and the family continued to remain in occupation of the same even after the death of the employee. A notice has been served on 25.8.1992 to applicant No. 2 that she is in unauthorised occupation of the quarter and that why she should not be evicted from the said premises. She, along with her son, applicant No. 1, filed this application on 17th September, 1992 under Section 19 of the Administrative Tribunal Act, 1985 praying to give direction to the respondents to appoint applicant No. 1 against some suitable post in Group 'C' category on compassionate grounds after declaring the Memorandum dated 13.3.1992 (Annexure A-1) as illegal being violative of Articles 14 and 16(1) of the Constitution and to regularise Quarter No. 72, Press Road, Minto Road, New Delhi in the name of applicant No. 1 after he has been appointed to the post of Group 'C' category on compassionate grounds subject to

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payment of normal licence fee in accordance with rules etc.

3. The applicant's case is that his late father was employed in Government of India Press and he died on 22.8.1991 leaving behind the widow, applicant No.2, Applicant No. 1 and his brother, aged 18 years. It is stated that he does not own any residential house in Delhi where the family of the deceased Government servant could shift and not in a position to hire any accommodation out of the meagre family pension which will be reduced later. Since there is no other source of survival for the family which is in the indigent circumstances as the deceased Government servant has left no moveable property on which the members of the family can depend for survival. The family pension is very meagre and is not adequate to meet the family's expenses. Since the applicant No. 1 become graduate and has experience of shorthand and typing, he has applied for a compassionate appointment in the category of Computer Operator/Copy Holder/L.D.C.

4. The respondents contested the application and in their reply it is stated that the request of the applicant will be considered sympathetically on his turn as and when a vacancy arises. In this connection the

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respondents relied upon the decision of the Division Bench of the Tribunal dated 21.01.1993 which gives direction to the respondents that a viable scheme should be prepared on an All India basis to give relief in such cases to the deserving cases. It is further stated that a common list has since been prepared of 149 deserving cases for compassionate appointment in which the name of the applicant has also been figured. All these cases can be considered according to the seniority from the date of death of the Government servants. The applicant's name appears at S.No. 141 as per seniority. Further, it is stated that it is not possible for the respondents to give over-riding priority to the applicant when more similar senior cases are pending before the respondents since 1985 onwards.

5. As regards the retention of the quarter it is stated that as per the rules, only upto six months after the death of the employee, the quarter can be retained on the normal licence fee. Thereafter, for a further period of six months on payment of damages at penal rent and after that eviction proceedings shall be initiated and the applicant has to vacate the Government premises under the extant allotment rules.

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6. I have heard the Learned Counsel for both the parties and have gone through the records of the case. The Learned Counsel for the applicant, however, stressed that his case should have been considered on priority basis and in this connection he has placed reliance on the case of Smt. Sushma Gosain vs. UOI [AIR 1987 SC 1976] as well as the case of Smt. Phoolwati vs. UOI [AIR 1991 SC 469]. As per the law laid down in those decisions whenever an employee dies in harness and if the family is in indigent circumstances, one of his legal representatives should be considered for appointment on compassionate ground. This proposition is accepted by the respondents and accordingly the respondents have argued that the applicant shall be given appointment on compassionate ground in his turn as there are many other deserving cases similar to the applicant. Therefore, the respondents stated keeping in view of the decision rendered by the Principal Bench vide order dated 4.2.1992 and a seniority list has already been prepared pursuant to the decision given by the Tribunal, the applicant has no case for preference over such other claimants who are placed above him in the said viable list.

7. The Learned Counsel for the applicant further

stressed that pursuant to the Tribunal's decision, the respondents have only prepared the seniority list and not the scheme as indicated in the judgement. It is an undisputed fact that the Government of India has got 23 Presses all over India and since 1980 no compassionate appointment has been made. Therefore, it is incumbent upon the respondents to indicate the number of vacancies in various Press and the period in which the vacancies that have not been filled. In so far as his client is concerned, he is graduate and experience in computer operator, copy holder and in case the department make direct recruitment as Key Board Operator, since the applicant is otherwise qualified, he should be given an opportunity for appearing along with others.

8. Regarding retention of quarter by the applicant, till the compassionate appointment is given to applicant No.1, the respondents have taken the stand that there are no rules to permit retention of the quarter beyond one year after the death of the employee for the first six months after the death of the employee, the quarter can be retained on the normal licence fee. For the next six months on the payment of damages at penal rent. Though

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the Learned Counsel for the applicant contended that the compassionate appointment is given to the applicant No. 1, the family be allowed to continue in the premises otherwise the family shall be uprooted. If this contention is accepted, then it will create problems for the respondents to give housing accommodation to regular employees who are still working and on the waiting list. The extant rules of allotment also do not permit the same. As stated in O.A. No. 2366/92, dated 21.01.93 and keeping in view the Supreme Court's decision in Smt. Shipra Bose & Anrs. vs. UOI case and seeing the indigent circumstances of the family, two years' time be given to the applicant to vacate the quarter unless, in the mean while, the applicant No.1 gets employment with the respondents. Meanwhile, the respondents shall charge the normal licence fee upto this period. In the light of the above, therefore, this OA is partly allowed. / In so far as compassionate appointment is concerned, in case the department makes a direct recruitment in regard to the post of Key Board Operators, the respondents should given an opportunity to the applicant to appear for the test as he is otherwise qualified and if he is successful, he may be appointed

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on his own merits. Otherwise he shall be appointed on
compassionate grounds in his turn on the basis of the
viable scheme prepared by the department. Secondly,
the respondents are hereby directed to allow the family
to retain the quarter upto two years from the date of
application i.e. 12.5.1992. The applicant shall vacate
the said premises after two years unless, in the mean
while, the applicant No. 2 gets the employment with the
respondents. The parties shall bear their own costs.

B.S. Hegde
(B.S. HEGDE)
MEMBER (JUDICIAL)

22/7/93