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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

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Date of Decision: 25.08.92.

OA 501/92

SMT. GITA KUMARI

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... SHRI V.K. MEHTA.

For the Respondents ... Ms. Jasvinder Kaur,
proxy counsel for
Shri Jog Singh.

1. Whether Reporters of local papers may be allowed to see the Judgement ?

2. To be referred to the Reporters or not ?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant is widow of the late employee, Shri Ishwari Dutt, of Govt. of India Press, Ring Road, Maya Puri, New Delhi. He was Compositor Gr.II (Group-C post) and died in harness on 30.1.91. He is survived by the present applicant and 5 minor daughters ranging between the ages of 14 years, 12 and 1/2 years, 11 years, 8 years and 3 and 1/2 years respectively. She was also interviewed for the post of LDC/Copy Holder but ultimately his request for compassionate appointment was rejected by the impugned order dated 13.1.92 informing her that there is no vacancy in the category of Copy

Holder/LDC against which she could be employed on compassionate grounds. She has filed this application for the relief that the impugned order dated 13.1.92 be quashed and a direction be issued to the respondents to give her compassionate appointment for a Group-C post of Copy Holder/LDC in Govt. of India Press, Ring Road, Maya Puri, New Delhi.

The deceased employee was also allotted premisses No.218, Type-I, Press Colony, Mayapuri, New Delhi and that is also in occupation of the applicant where she is residing with the minor children and an interim relief is prayed that only licence fee be charged from the applicant.

The facts of the case are that the applicant and the minor children were solely dependent for their living on the earning of the deceased employee Shri Ishwari Dutt. After his death they have no other source of livelihood except amount of pension @ Rs.650/- p.m. granted as a family pension besides death gratuity Rs.4600/-, Insurance money Rs.32,000/- and Provident Fund Rs.4800/-. It is stated that the family is in indigent circumstances and needs rehabilitation by way of compassionate appointment and since the applicant widow is the major surviving member, so she should be

given that appointment under the various OM issued by Govt. of India from time to time.

The respondents contested the application and referred to a judgement given in OA 2753/90 alongwith a dozen of other OAs and the common judgement issued directions to the respondents to prepare a scheme and give immediate relief to the deserving persons. The other averments in the counter are only denial of facts stated in the application when any specific objection to the grounds taken by the applicant.

The applicant has also filed rejoinder and annexed with the annexure giving a broad spectrum view of the vacancies in the Establishment of Govt. of India Press, Ring Road as on 1.3.92. At Sl. No.21 for LDC (Computer, T.K. and Store Clerk etc.) in the last column 9, 17 vacancies are shown as vacant. This fact is not denied.

I have heard the learned counsel for both the parties at length. The case of the applicant as projected in the application is that she is indigent person with liability of 5 minor children and she has no other source besides the family pension. The respondents only pin pointed the facts that there are no

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vacancy in the quota of compassionate appointments. The respondents also re-enforce their contention by referring to a judgement of the Division Bench which directs them to prepare a scheme and give compassionate appointment on the basis of comparable necessity arising out of lower financial capacity to support the family.

I have given a careful consideration and having in my mind the case of Sushma Gosain vs. UOI (1989 (4) SCC 468) and that of Phoolwati vs. UOI (CA No.5967/90 Decided on September 5, 1990). In the case of Phoolwati, even the appointment of the second son was directed to be given by the respondents and in the case of Sushma Gosain, she was also having minor children and a direction was issued by the Hon'ble Supreme Court to give her appointment and, if necessary, a supernumerary post be created to accommodate her. Neither in the counter filed by the respondents nor in the impugned order they have not taken the stand that the applicant is not an indigent person. It is not positively stated that there is another source of livelihood or that there is other movable or immovable property of the deceased which could supplement the family pension for upbringing and rehabilitating the family of the deceased employee. When a particular fact is not alleged and there is a specific purposeful silence on the part of the respondents then the averments in the application cannot be overlooked.

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there are no quota post in compassionate appointment, that would not be strict compliance of the OM issued by the DOPT for giving compassionate appointment. The only requirement is the indigent nature of the family and the utmost need to rehabilitate a uprooted family, the bread earner of having died in harness.

In view of the above facts, I do not think it proper to leave it to the respondents to judge the need of the applicant vis-a-vis other applicants standing in que for compassionate appointment. The case itself goes to show that the applicant widow has 5 minor children that too daughters and seeing the social conditions in this part of the country much help for rehabilitation is required as desired by her by compassionate appointment. I have fully in my mind the direction given by the Division Bench in the quoted judgement in the counter by the respondents. The present direction to the respondents fully fits in with the observations made by the Division Bench in that judgement. That judgement cannot be taken as an excuse by the respondents to shelve her case till another clamity falls on her.

I do not find any other point which has been raised by the respondents to defeat the application and so the present application is disposed of with the following directions:-

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a) The respondents are directed to give an appointment to the applicant on a Group-C post of LDC/Copy Holder within a period of three months from the date of receipt of a copy of this order.

b) The applicant should be considered for regularisation of the premises which were held by the deceased employee and now in occupation of the applicant within that period.

In the circumstances, parties are left to bear their own costs.

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)
25.08.92