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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.2650 of 1993

New Delhi this 29th of April, 1994.

Hon'ble Mr. S.R. Adige, Member(A)

Mrs. Manju,
Peon C/o CWE(P),
Delhi Cantt. 110010

By Advocate Shri George Pariekan

.....Applicant.

Versus

1. Union of India
through Secretary,
Ministry of Defence,
South Block, DHQ PO,
New Delhi -110011.
2. E-in-C's Branch,
Army Headquarters,
Kashmir House,
DHQ PO, New Delhi-110011
3. Head quarters,
Chief Engineer,
Western Command,
Chandimandir-134107.
4. Chief Engineer,
Headquarters,
Delhi Zone, Delhi Cantt-110010.
5. Commander Works Engineer(Project),
Delhi Cantt-110010.

None for the respondents.

.....Respondents.

JUDGMENT

In this application, Mrs. Manju, w/o Late Shri M.S. Thapa, deceased Ex-serviceman, has prayed for a direction to be issued to the respondents to appoint her to a Group 'C' post of LDC/Tracer or any other suitable Group 'C' post, ⁱⁿ commensurate with her ^{the} qualifications.

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2. The applicant's husband, who was an Ex-service man and was re-employed as a Lift Attendant in the office of Garrison Engineer(P) No.2, Delhi Cantt. expired on 20.2.88 while in service. The applicant, who is a graduate, claims that she applied for the post of LDC or any other equivalent post on compassionate ground, as apart from herself, she has two daughters aged two years and eight months respectively at that time. She was trade tested for the post of LDC on 9.5.88 and was declared fit, but was not appointed as LDC on the ground that no vacancy of LDC existed and was advised to accept the post of Peon which she did on 23.3.89. She has further stated that right from then she has been working as a Receipt Clerk, although she is being paid the salary of a peon. She has asserted that there were 30 posts of Tracers available with the respondents and if no vacancy of LDC existed, she could have been adjusted against a post of Tracer, instead of compelling her to accept the post of peon. She states that her representations have been rejected compelling her to file this application.

3. The respondents state that the applicant applied only for the post of ^{L.D.C. as} ~~Tracer~~, in which she was trade tested ^{and found fit as} but no vacancy of LDC being available at that time, she was advised to accept the post of peon which she did.

4. Shri Pariekan, learned counsel for the applicant relied upon the Hon'ble Supreme Court's ruling in 'Smt. Sushma Gosain Vs. Union of India'

5

(Civil Appeal No.3642/89 decided on 25.8.89), the relevant extract of which reads as follows:-

"We consider that it must 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 cases pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

5. Shri Pariekan has also relied upon the cases of 'Smt. Sarla Rani Vs. Union of India' (O.A.No.515 of 1990 decided by this Tribunal on 5.2.92) and Smt. Shanti Devi Vs. UOI (O.A.No.496/91, decided on 31.3.93. It is clear from the Hon'ble Supreme Court's judgment ^{as above} extracted that the emphasis is on providing immediate relief to the family of the deceased employee, to save it from financial distress. In the present case, the respondents had tried to adjust her against the post of LDC, but no vacancy being available at that point of time, she was offered a post of peon which she accepted. To direct the respondents to create a supernumerary post of LDC at this point of time, over five years after the death of deceased Government employee, would be going far beyond the scope and ambit of the Hon'ble Supreme Court's observations extracted above. It must be remembered that there is no enforceable right for ^{as} ~~the~~ compassionate appointment ^{incommensurate with an applicant's educational qualification} and ~~the~~ compassionate appointment cannot be made the path for career advancement. In this connection, the Hon'ble Supreme Court in a recent judgment in 'LIC Vs. Mrs A.R. Ambekar & another' (JT 1994(2)SC 183 has observed that

"Administrative Tribunals cannot confer benediction impelled by sympathetic consideration. The courts are to administer

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law as they find it, however, inconvenient
it may be

6. In the light of this ruling of the Hon'ble
Supreme Court, the relief prayed for by the
applicant is rejected, and this application is
dismissed. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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