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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.968/93
MP.2034/93

Date of Decision:25.8.93

Smt. Chandra Devi

Applicant

Versus

Union of India

Respondents

Ms. Raman Oberoi

Counsel for the applicant

Shri A.K. Sikri
with Shri V.K. Rao

Counsel for the respondents

SINGLE BENCH JUDGEMENT(Oral)

Heard the learned counsel for both parties.

The applicant is the widow of the deceased Lakshman Singh who died in harness on 15.11.91 while working as Jamadar with the respondents. This application is filed claiming a relief for compassionate appointment to the applicant's son Shri Nandan Singh and also to stay the vacation of the applicant from the Government accommodation. There are two issues involved in this OA. Firstly I will deal with the second issue.

2. Before formation of the MTNL in 1986, the telephones were controlled by Delhi Telephones which was under the Department of Telecommunication. After 1986, the MTNL has been separately constituted and was registered under Company's Act. It is noted that the MTNL is not declared as one of the subjects of our jurisdiction under Section 14 of the Central Administrative Tribunal's Act, 1985. In the beginning, the Chairman and Managing Director, MTNL and the Administrative Officer(R & E), MTNL were impleaded as R2 and R3 respectively. Subsequently, when this point was brought to the notice of the Tribunal, it was argued that the learned counsel for the applicant amended the OA and removed R2 and R3

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stated above, as a result of which, I hold that this court is not having jurisdiction over MTNL. The applicant is now staying in the quarter of the MTNL pool and the MTNL is controlling the allotment of quarters to its employees after its separation and subsequent registration under Company's Act.

3. Since this Tribunal has no jurisdiction over MTNL, it cannot give any direction to it. In the circumstances, the second prayer made by the applicant for staying the order of the respondents from vacating the applicant from the quarter till the compassionate appointment is considered cannot stand. Therefore the Stay is vacated.

4. As regards the first issue is concerned, the deceased has left behind three daughters and two sons besides his widow. It is claimed in the OA that the retiral benefits received from the department after the death of Lakshman Singh was entirely spent in discharging the loans obtained by late Lakshman Singh during his life time while marrying his three daughters. Therefore, the learned counsel for the applicant contends vehemently that there is no amount left with them and are now in a difficult situation. It is also claimed that the eldest son is employed. But she files an affidavit stating that the eldest son is not supporting the family.

5. The learned counsel for the respondents Shri A.K. Sikri argued that the Department of Personnel, and Training Memorandum dated 28.9.1992 observed that all these aspects are to be considered not in isolation but in totality and that the compassionate appointment is also not a matter of right.

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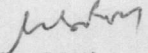
6. The learned counsel for the applicant cites the decision of the Hon. Supreme Court Judgment in the case of Phoolwati Vs. Union of India, CA No, 5967/90 and Smt. Sushma Gosain and others Vs. Union of India and others reported in AIR 1989 (SC) page 1876, wherein their Lordships directed for consideration of the applicant for appointment. The rest of the cases cited by the applicant does not need any mention in view of the Hon. Supreme Court rulings.

7. The learned counsel for the applicant cited the judgement ATC(18) 1991 page 502 in the case of Smt. Hoshiari Versus Union of India decided on 21.5.1990, in which the Tribunal held that compassionate appointment could not be given when so many retiral benefits are received. In this judgement, it is further observed that the case of the said applicant in that case could not be considered for appointment in view of the fact that they also own a house. In this case, apparently, the applicant is staying as stated above in a quarter. In the circumstances, I am following the Supreme Court ruling in the Phoolwati's case. In view of the fact that all the retiral benefits are spent in discharging the loans obtained by the deceased before his death and that the second son who is employed is not supporting the family and the only son that is remaining is unemployed, I consider it fit to dispose of this OA with a direction.

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8. I therefore, direct the respondents to reconsider the case of the second applicant Shri Nandan Singh for compassionate appointment within a period of 3 months from the date of communication of this order.

9. With this observation, this OA is disposed of.
No costs.


(C.J. ROY)

MEMBER(J)

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25.08.1993