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CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration T.A.No. 333 of 1986

Smt. Kamla Devi. . . vs. . . Union of India and others
and another.

Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri Ajay Johri, Member(A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

Suit No. 260 of 1985 (1) Smt. Kamla Devi and
(2) Shiv Shankar vs. (1) Union of India, (2) D.R.M.
E.Rly, Moghalsarai and (3) Smt. Radha Devi, for
permanent
injunction restraining the defendants no. 1 and 2
from making payment of the amount of settlement
dues and giving any appointment on compassionate
ground to defendant no. 3 Smt. Radha Devi,
pending in the court of Munsif Hawali, Varanasi,
has been transferred to this Tribunal under
Section 29 of the Administrative Tribunals Act
(No. 13 of 1985) and has been re-numbered as
Registration T.A.No. 333 of 1986 on the file
of this Tribunal.

This suit was filed on 9.4.1985. Badri
Prasad, a fitter in the Railway Department, died
on 29.4.1980 leaving his widow Smt. Kamla Devi
plaintiff no.1 and his eldest son Rupesh Kumar
(deceased), Shiv Shankar, Plaintiff no.2 and two

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other sons. Badri ~~Prasad~~ died on 29.4.1980. Therefore, on compassionate ground, his eldest son Rupesh Kumar was given appointment in March, 1981. Rupesh Kumar also died on 25.11.1984 leaving his widow Radha Devi, defendant no.3. Smt. Kamla Devi, and Shiv Shankar, brother mother of Rupesh Kumar filed the present suit for restraining defendants no. 1 and 2 from making any payment or giving any appointment to Smt. Radha Devi, widow of deceased Rupesh Kumar.

Defendants no. 1 and 2 filed written statement contending that in the presence of the widow, Smt. Radha Devi (defendant no.3), the mother (Smt. Kamla Devi) and brother (Shiv Shankar) of Rupesh Kumar have no claim. The case of defendant no.3 is that she was married to Rupesh Kumar and her 'gauna' was also performed. On the death of Badri Prasad, his widow Smt. Kamla Devi, plaintiff no.1, got all the dues and family pension, and the other sons of Smt. Kamla Devi are already employed. She is the widow of deceased Rupesh Kumar and is entitled to get all the dues of Rupesh Kumar and also some job on compassionate ground. She has passed Intermediate and is now major, and, therefore, she can be easily given some job on compassionate ground. She has realised all the dues and is also getting family pension with effect from 26.11.1984. She was also paid the insurance amount on 24.7.1985. In this way, the part of the relief claimed in the plaint has become infructuous and, so far as the appointment on compassionate ground is concerned, this should be given to defendant no.3 and not

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to Shiv Shankar, plaintiff no.2.

The suit is for injunction restraining the defendants no. 1 and 2 from making any payment of the settlement dues etc. and from giving any job to defendant no.3. All the necessary payments in respect of Rupesh Kumar have been paid to his widow Smt. Radha Devi. She has also got the family pension as well as the insurance amount. So, that part of the relief has become infructuous. It remains to be seen whether plaintiff no.2 or defendant no.3 should be given a job on compassionate ground. Plaintiff no.2 is the brother and defendant no.3 is the widow of deceased Rupesh Kumar.

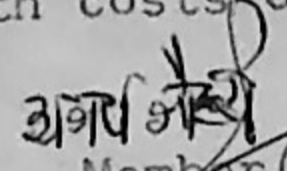
It was contended that defendant no.3 is a young widow and if she marries at a subsequent stage, the very purpose of the departmental instructions on this score will be defeated. It may be that she is a Hindu widow and may not marry. However, we need not indulge in guess-work and it would suffice to say that under the rules, defendant no.3 has got better claim as a widow than the brother of deceased Rupesh Kumar. Of course, at present, defendant no.3 is living with her father, but there is no guarantee that the father will maintain her for ever and ^{so} her claim cannot be rejected on the ground that she is living with her father. Defendant no. 3 is now major. Her husband Rupesh Kumar died on 25.11.1984. She has

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passed Intermediate. She, being the widow of deceased Rupesh Kumar, is definitely a better claimant in this regard than plaintiff no.2. In the circumstances, the authorities cannot be restrained from giving any job to defendant no.3 on compassionate ground. As regards the settlement dues etc., it has already been observed that those amounts have been realised by defendant no.3 and no injunction can be granted as prayed.

In the result, this application (Suit No. 260 of 1985) is dismissed with costs on parties.

February 26th, 1987.
 R.Pr./
 Vice Chairman.


 Member (A).