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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 135 of 1988

Smt. Gayetri Devi & another Applicants.

Versus

Union of India & others Respondents.

Hon'ble S. Zaheer Hasan, V.C.
Hon'ble D.S. Misra, A.M.

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

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985.

2. On 17.1.1987, A.P. Srivastava, Inspector, Central Excise died (of Cancer) in harness while in service before retirement. He left Smt. Gayetri Devi, applicant no.1, as his widow, Vimal Kumar Srivastava, aged 24 years, petitioner no.2, as his son and three unmarried daughters. He also left one son viz. Pawan Kumar, aged 35 years, who is unemployed. Mahendra Kumar, the other son, is L.D.C. in Veterinary Department in Bhopal. He is married and has children and is aged about 32 years. Another son, viz. Surendra Kumar, aged 28 years, is working on a fixed pay on ad hoc basis as L.D.C. in the Veterinary Department in Bhopal. The case of the applicant no.1 is that she has to maintain her sons, viz. Vimal Kumar, Pawan Kumar and three unmarried daughters with no substantial income. Her two sons, viz. Mahendra Kumar and Surendra Kumar are working as L.D.C. in Bhopal and they are living separately from her and are not maintaining her, nor they are in a position to

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maintain her and the other members of the family residing with her. Under these circumstances she moved an application for appointment of a son, viz. Vimal Kumar Srivastava applicant no.2, aged about 24 years, on compassionate ground. This son is a Graduate. The prayer for appointment on compassionate ground was rejected, hence the present application.

3. The defence is that the applicant no.1's two sons are already employed and apart from family pension she has an income of Rs.1,500/- per annum from agricultural land, so under the circumstances the prayer was rightly rejected.

4. Appointment of a son of the deceased ~~employee~~ employee can be made on compassionate ground if the employee died in harness while in service before retirement. Cases of appointment on compassionate grounds should be viewed sympathetically. ~~according to~~ ^{as} ~~the Board's interpretation~~ ~~dated 18.1.1959~~. When offering appointment on compassionate grounds to a widow, son, daughter, etc. it need not be checked up whether another son or daughter is already working. The two sons, viz. Mahendra Kumar and Surendra Kumar are working as L.D.Cs. in Bhopal (M.P.). Mahendra Kumar is 32 years old and has wife and children. He is living separately from his other brother, viz. Surendra Kumar, who is a temporary L.D.C. on fixed salary in Veterinary Department at Bhopal. Being L.D.Cs. they would find it difficult to ~~pull~~ ^{make} on in these hard days in Bhopal and we do not think they are in a position to maintain Smt. Gayetri Devi and five children living with her. There is absolutely nothing to show that these two sons in

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Bhopal are extending any help to their mother. Pawan Kumar, the other son, aged 35 years, is unemployed and is now over age. Three daughters are unmarried and it will definitely pose a problem for the widow to get them married suitably. ^{with considerable assets.} Vimal Kumar Srivastava, applicant no.2, aged 24 years, is a Graduate, so he is best of the lot in the family to be offered an employment on compassionate ground. In such cases regards should be had to the number of dependents, the assets and liabilities left by the deceased and the income of the earning members as also their liabilities. The family pension of the widow and a meagre income of Rs.1,500/- per annum from agricultural land cannot be considered as sufficient to maintain a family consisting of three unmarried daughters and two sons apart from the widow with no help from the other two sons, who are working as L.D.Cs. in Bhopal.

5. Vimal Kumar Srivastava, applicant no.2, may move a formal application for appointment on compassionate ground and the respondents are directed to give him a suitable job on compassionate ground keeping in view his eligibility in case there is a vacancy or whenever a vacancy occurs. In case he is found over age the power of relaxation of upper age limit can be exercised. With these directions the application is disposed of with costs on parties.

N. H. M.
26-2-88

Member (A).

Vice-Chairman.

Dated: February 26, 1988.

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