



has rejected the request of the applicant. The learned counsel for the respondents has further contended that the applicant managed to pull on her family for about 19 years, so the family of the applicant was not facing any financial crisis, as such, the applicant's family is not in indigent condition. The applicant who is the widow of the deceased employee however, could not apply for compassionate appointment on the ground that she was an illiterate lady and was not in a position to work as a daily rated labour. It is not disputed that the son of the deceased was infant at the time of his death so he could have not been given any appointment on compassionate ground within 5 years after the death of the husband of the applicant. My attention has been drawn towards the provision of circular letter dated 1.1.1979 (CA-1) in which it is said that the application for appointment on compassionate ground should be considered only if the appointment is sought within 5 years from the date of death of the Government servant. Any relaxation beyond this period may be considered very rarely. Thus, according to this circular letter, in exceptional cases, the appointment of the ward of the deceased employee can be considered beyond the period of 5 years <sup>also</sup>. Since the son of applicant Tej Prakash was minor at the time of the death of the employee therefore she could not apply for his appointment and on his attaining the age of majority she moved the application. The learned counsel for the applicant has cited (1992 21 ATC 238 Om Prakash Sharma Vs. Union of India & ors.), in which, it has been held that the son on attaining the majority about 16 years later and immediately



thereafter making request for compassionate appointment, such request is not belated.

5. So, in the light of the case as cited above, the application moved by the applicant for appointment of her son 19 years after the death of her husband was not belated.

6. There is another aspect of the matter which has been disclosed ~~for the first time~~<sup>for the first time</sup> in the Counter Affidavit that another son of the deceased employee namely Ram Dayal Tewari is already in employment and he is supporting the family of the deceased employee. The applicant in her application has concealed this fact by stating that Tej Prakash is the only son of the deceased employee. In the Rejoinder Affidavit the applicant however admitted that the another son of the applicant who was major at the time of the death of his father was already in employment but, it is stated that he being the step-son of the applicant was not supporting the family and he was living separately. Since this fact has been disclosed in the Rejoinder Affidavit by the applicant <sup>for the</sup> by the first time, therefore, respondent has no occasion to admit or deny this fact. This aspect of the matter has not been considered by the respondents while rejecting the application of the applicant for appointment of her son Tej Prakash.

7. In view of the discussions made above, the application of the applicant is disposed of with a direction that the respondents should verify the fact whether the elder son of the deceased employee is

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living separately and is not supporting the family of the applicant and <sup>as such as</sup> if the condition of the applicant is indigent and distress then her son Tej Prakash may be considered for appointment on the compassionate ground as per Rules on the first available vacancy for which he is found suitable. There will be no order as to cost.

  
Member-J  
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Allahabad Dated: 28.9.1993

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