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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: 16.12.94

Original Application No: 144 of 1994

1. Smt. Uma Srivastava
W/O Late R.S.Srivastava
R/O House No. 965/288/91 C,
Allahapur, Allahabad
2. Sharad Kumar Srivastava
S/O Late Shri R.S.Srivastava
R/O House No. 965/288/91 C.
Allahapur, Allahabad

..... Applicants.

By Advocate Shri H.S.Srivastava

Versus

The Union of India & Ors.

..... Respondents.

By Advocate Shri C.S.Singh

C O R A M

Hon'ble Mr. T.L.Verma
Member-Judicial

O R D E R

One Shri R.S.Srivastava was employed as Inspector (Audit) Central Excise under Deputy Collector (P & V). He expired on 22.2.1992. Upon his demise, Smt. Uma Srivastava, widow of Late R.S.Srivastava submitted an application seeking employment for her son Sharad Kumar Srivastava, applicant No. 2 in this case as U.D.C. on compassionate ground. The respondents have rejected her request by letter dated 21.6.1993. The said Smt. Uma Srivastava, thereafter, ~~has~~ filed an appeal against the order rejecting her request for

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appointment of her son Sharad Kumar Srivastava. Her appeal has been forwarded to the Board by letter No. II (3) 23-Estt./88/5172 dated 2.8.1993 and FN No. II (3) 373-Estt/92 dated 8.3.94 for re-consideration of her case. The matter is still pending with the department. In the meanwhile, she has filed this O.A. for quashing order dated 21.6.1993 whereby here request for appointment of her son on compassionate ground has been rejected and ^{for} issuing a direction to the respondents to give suitable appointment to applicant No. 2 on any group 'C' post.

2. ³ We have heard the learned counsel for the parties and ⁷² perused the record. It is an admitted fact that the elder son of applicant No. 1 Shri Sharad Kumar Srivastava is working ~~at~~ National Airport Authority, Bamrauli. The respondents contend that as one of the son of the deceased is gainfully employed, his second son is not entitled to appointment on compassionate ^{ground} ~~appointment~~ in terms of instructions issued by the Ministry of Personnel & Public Grievances vide memorandum dated 9.12.1993 (Annexure A-5).

3. It was stated, according to the instructions issued by the Ministry of Personnel, a son or daughter or a near relative of a deceased Government servant who dies in harness including death by suicide leaving his family in immediate need of assistance where there is no other earning member in the family may be appointed on compassionate ground. Since one of the

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son of the applicant No. 1 is already gainfully employed in the office of the Air Port Authority of India, the other son was not entitled to appointment on compassionate ground in terms of the above instructions. The Supreme Court also in L.I.C. of India Vs. Mrs. Asha Ramchandra Ambekar & Anr. reported in Judgements Today 1994 (2) SC page 183 have held that;

"The Court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the Circular dated 20.1.1987 interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory Corporation is bound by the Life Insurance Corporation Act as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered."

The case under consideration is a more or less ^{similar referred to above} is to the one that came up before the Supreme Court ^{for consideration}. ~~Court in the decision referred to above~~ In that view of the matter, the respondents cannot be faulted in rejecting the prayer of respondent No. 1 to give compassionate appointment ^{to} of her son when her first son was gainfully employed.

4. The learned counsel for the applicant urged that according to Clause 'C', under Caption Eligibility, of the instructions contained in Annexure A-5 in deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the

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prior approval of the Secretary of the Department concerned who, before approving the appointment will satisfy himself that the grant of ~~compassionate~~ concession is justified having regard to the number of dependants, the assets and liabilities left by the deceased Government servant. It was stated that the elder son of the deceased Government servant had been employed while the husband of the applicant No. 1 was alive and that he ~~was~~ ^{is} living separately with his wife and children. The said son, it was stated, is not willing to support the applicant No. 1 & 2, hence, her^s, ~~he~~ is ^adeserving case where the second son should be appointed on compassionate ground. Before giving appointment to a second member of the family of the deceased Govt. servant, some inquiry regarding the family condition ~~of the~~ and the number of the dependants left behind by the deceased Govt. servant has to be made and the final decision in the matter has to be taken by the appropriate authority as given in the instructions. We ~~are~~ ^{have} informed that the appeal for appointment of the second son of the deceased Govt. servant made by applicant No. 1 has been referred to the Government for taking appropriate decision. The chances of the Competent Authority taking decision in favour of the applicant are very much there. That being so, I would not like to express my opinion on the merit ^{or otherwise} of the c-claim of the applicants, as may prompt, the decision of the competent authority in that behalf.

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5. In the facts and circumstances of the case, this application is disposed of with a direction to the respondents to consider the appeal ~~filed~~ filed by applicant No. 1 for appointment of her second son by a reasoned and speaking order within a reasonable time that is to say, 3 months from the date of service of this order. There will be no order as to costs.

J. K. Linn

Member-J

16.12.99

/jw/