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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 266 of 1992

Date of decision: 29th September, 1992.

Radhika Devi Applicant

Versus

Union of India and others... Respondents

For the Applicant : M/s Deepak Misra,
A. Deo,
B. S. Tripathy,
Advocates

For the Respondents : Mr. Ashok Misra, Sr. St. Counsel (Central)

CORAM:

THE HONOURABLE MR. K. P. ACHARYA, VICE CHAIRMAN

1. Whether reporters of local news papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? *NO*
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

JUDGMENT

K.P. ACHARYA, V.C., In this application, under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to the respondents to give the applicant a suitable job on compassionate grounds.

2. Shortly stated, the case of the applicant is that her deceased husband, S.B. Batra died on 13.11.1990 while in service as a Daftry in the I NS Chilka working under the Garrison Engineer. After the death of the husband, the applicant Radhika Debi made an application for compassionate appointment. Her request not having been acceded to, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant Radhika Debi has been placed against serial No.27 in the waiting list and as soon as her turn comes, she would be given an appointment.

4. I have heard Mr. R. N. Naik, learned counsel for the applicant and Mr. Ashok Misra, learned Senior Standing Counsel (Central) for the respondents on the merits of the case. The stand taken by the respondents regarding the appointment to be given to the applicant is quite reasonable i.e. she would be given a compassionate appointment when her turn comes as per Serial No.27. But there is another aspect to be considered. In case, all the candidates mentioned against serial Nos.1 to 26 are waiting for appointment against Class IV (Group 'D') unskilled category, then certainly the applicant should wait till her turn comes. But amongst the 26 candidates above

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the applicant, if there are no other candidates waiting for appointment against Class IV post then order of appointment should be issued immediately in favour of the applicant and if there are some candidates waiting for Class IV posts, who have been placed above serial No.27, then the case of the applicant would be considered for appointment against Class IV post after those who are placed in the waiting list for Class IV are exhausted. I would direct that the Garrison Engineer, IMS Chilka, Respondent No.3 would devote his personal attention to this aspect and find out as to whether the guidelines indicated above, would be applicable to the present applicant and if so, necessary steps be taken for appointment keeping in view the observations of Their Lordships in the case of Smt. Phoolwati vrs. Union of India and others, reported in AIR 1991 SC 469.

5. In the case of Smt. Phoolwati (supra) Their Lordships had directed in the last paragraph of the judgment that Smt. Phoolwati and members of her family should not be evicted from the quarters which was occupied by her husband. This observation of Their Lordships applies in full force to the facts of the present case. Hence following the dictum laid down by Their Lordships in the case of Smt. Phoolwati I direct that the applicant should not be evicted from the quarters which was being occupied by her husband and it is being occupied by the applicant till the compassionate appointment is made. The applicant must pay the usual rent otherwise steps be taken to evict her in due process of law. So far as the arrears are

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concerned, a very easy instalment be fixed in favour of the applicant for payment keeping in view that she is a widow and has no source of income.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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..... 29.9.92

VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack
September 29, 1992/Sarangi.

