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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2596/2003

New Delhi this the 3rd day of March, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

1. Smt. Chandrawati Devi,
widow of late Shri Girvar,
Ex. Regular Mazdoor,
of office of the Manager,
Government of India Press,
Aligarh (UP).

Residential Address:

C/o Shri Murari Lal Kashyap,
Hanuman Puri (Mahendra Nagar),
Aligarh (UP).

2. Hira Lal,
S/o late Shri Girvar,
Ex. Regular Mazdoor,
of the office of the Manager,
Government of India Press,
Aligarh (UP).

Residential Address:

C/o Shri Murari Lal Kashyap,
Hanuman Puri (Mahendra Nagar),
Aligarh (UP).

.... Applicants.

(By Advocate Shri D.N. Sharma)

VERSUS

1. Union of India,
through the Director of Printing,
Government of India,
'B' Wing, Nirman Bhawan,
New Delhi.
2. The Manager,
Government of India Press,
Aligarh (UP).

... Respondents.

(By Advocate Shri Rajeev Kumar proxy for Shri J.B. Mudgil)

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O R D E R (ORAL)

By this O.A., applicants have sought a direction to the respondents to reconsider the case of applicant No. 2 for compassionate appointment.

2. It is submitted by the applicants, that is the widow and son of the deceased employee, that applicant No.2's father died on 21.12.1997 because of cancer leaving behind his dependent widow and five sons. The eldest son Shri Amar Pal, aged about 27 years was married and living separately with his family but he did not give any financial assistance to the mother or his brothers. Therefore, applicant No. 1 gave an application for giving compassionate appointment to her second son i.e. Shri Hira Lal. The request was rejected vide letter dated 17.10.2002, on the ground that the deceased had put in 10 years of service. His family received an amount of Rs.69,591/- by way of terminal benefits apart from family pension of Rs.1390/- plus dearness relief and they also have their own residential accommodation. Being aggrieved, applicants filed O.A. 334/2003, which was disposed of vide order dated 14.2.2003 by directing the respondents to reconsider the case of the applicants and by treating the O.A. as an additional representation. The respondents thereafter have again rejected the case of applicant No. 2 for compassionate appointment vide order dated 27.8.2003. The applicants have now filed this O.A. challenging the said order, on the ground that their case comes under the poverty line keeping in view the instructions issued by the DOP&T wherein the income less than Rs.1767.20 p.m. for a family of five members is treated to be as below poverty line. Moreover, their case has not been considered for three years, as is required vide DOP&T O.M. dated 5.5.2003 whereas it ought to have been kept in waiting list for three years. It is submitted by the applicants that since they have a large family and there is no other source of income, therefore, it is a fit case for grant of relief.



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3. Respondents have opposed this O.A. They have submitted that nobody can claim compassionate appointment as a matter of right. As the case of applicant has been considered on the basis of report given by the Additional Labour Welfare Commissioner, who has stated that two of the sons of deceased employee are working as Labourers and earning Rs.1500/- and Rs.800/- per month, respectively and she also has a residential house in 150 yds. and the total monthly income comes to Rs.2154.50, that is Rs.1390 plus 55% dearness relief admissible thereon. Therefore, it cannot be said that the family is below the poverty line. They have thus submitted that since the family has itself owned the house, it makes the conditions of the family somewhat less precarious ^{than those who B} ~~which~~ ^{have R} no house of ^{their} ~~its~~ own and since there are already number of persons in the waiting list, even if his name was kept, his number would be at Serial No. 132-A which cannot mature within three years also because of continued ban on fresh recruitment and shrinking size of Govt. of India presses. Therefore, his case has rightly been rejected.

4. I have heard both the counsel and perused the pleadings as well.

5. It is well settled by now that nobody can claim compassionate appointment as a matter of right or by way of inheritance. On the contrary, compassionate appointment can be given only in exceptional circumstances where the family is in absolute destitute condition due to the death of sole earning member in the family, there is no other source of income and it would not be possible for the family to survive unless they are given immediate assistance by the Department. Simply because the father has died while in harness, it cannot be made as an easy step for gaining entry into the Government service. It is also well settled by now that courts cannot give directions to the respondents to give appointment to any person on compassionate ground and if the court finds that either the case has not been considered at all or some extraneous circumstances have been taken into

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consideration, then at best the court can direct the respondents to reconsider the case of the applicant. In this case, applicant No.2's case was rejected by the respondents but ~~whereafter~~ when applicant approached this Tribunal, this Tribunal had directed the respondents to reconsider the case and after reconsideration also the case of applicant has been rejected, on the ground that two sons are also earning in the family and they also have their own house.

6. I have already stated that so long the case of the applicant has been considered by the competent authority and rejected on valid grounds, interference cannot be made by the Tribunal. Therefore, once the authorities have come to the conclusion that the family is not in an indigent circumstance due to the fact that two sons are already working and they have their own house and when they have already as many as 132 persons above applicant No. 2 in the list, who are waiting for compassionate appointment, definitely no direction can be given to the respondents to break the queue and consider the applicant by ignoring those persons who already figure in the waiting list. At this juncture, it would be relevant to refer the judgment of Hon'ble Supreme Court in the case of General Manager (D&PB) and Ors. Vs. Kunti Tiwary and Anr. reported in 2004 (7) SCC 271, in which it has been held that 'High Court was wrong in diluting the criterion of penury to one of "not very well-to-do" and directing the Bank to appoint the deceased son'. This view was followed by the Hon'ble Supreme Court in Punjab National Bank Vs. Ashwani Kumar Taneja reported in 2004 (7) SCC 265, wherein it was reiterated by the Hon'ble Supreme Court that compassionate appointment is not a source of recruitment but merely an exception to the requirement of making appointments on open invitation of application on merit. Therefore, I cannot say that the family is not so well off. The very fact that two sons are already working and earning in the family, they have their own house and three of the so called dependent sons were already major on the date when the deceased employee



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died itself shows that the family was not really in indigent condition nor can in these circumstances they claim that they should be allowed to be appointed on compassionate grounds. It goes without saying that there must be people in this organization who do not have any roof on their head after the sole earning member in the family dies. Moreover, in this case there was no liability of unmarried daughter since all the four sons were major. There were only two minor sons who were aged 13 and 10 years but in view of the fact that two out of four major sons were already earning and the family has its own house, it can hardly be said that the decision taken by the respondents was wrong. As far as the O.M. dated 5.5.2003 is concerned, that would be relevant only if a finding had been returned by the committee to the effect that the family was really in an indigent condition but could not be given the appointment due to non availability of vacancy. In the instant case, since respondents have stated that the applicant's case was not one of those which falls in indigent condition, they cannot claim the benefit of O.M. dated 5.5.2003.

7. Since case of applicant No.2 has already been considered second time by the respondents and I find no illegality in the decision taken by the respondents, this O.A is dismissed. No order as to costs.



(MRS. MEERA CHHIBBER)
MEMBER (j)

'SRD'