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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2895/2003

New Delhi this the 10th day of November,2004

Hon'ble Mr. S.K. Malhotra, Member (A)

Smt. Vimla Devi,
Widow of late Shri Ram Swarup,
Ex. Binder, Govt. of India Press,
Aligarh (UP)

Resident of:

Dhoura Mafi, Post Office: Kwarsi,
District: Aligarh (UP)

2. Dharmendra Kumar,
S/o Late Shri Ram Swarup, Ex.Binder,
Govt. of India Press, Aligarh (UP)

Applicants.

(By Advocate: Shri D.N.Sharma)

Versus

1. Union of India
through
The Director of Printing,
Govt. of India, "B" Wing,
Nirman Bhawan,
New Delhi

2. The Manager,
Govt. of India Press,
Aligarh (UP)

...Respondents.

(By Advocate Shri J.B.Mudgil)

O R D E R (ORAL)

This is an OA requesting for compassionate appointment against the post of Lower Division Clerk (LDC). The application has been filed by the widow and dependant son of the Govt. employee who died on 29.5.89. It is contended that the name of the son of the deceased employee has been kept in the waiting list for the

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post of LDC vide order dated 20.7.2001. According to the procedure adopted for wait-listing candidates eligible for compassionate appointment, the list is kept in the chronological order on the basis of date of the death of the employees. It has been stated that in some cases, the dependents of deceased employees in whose cases the death had occurred on the dates later than the death of applicant's father, have been favoured with compassionate appointment whereas the claim of the applicant No.2 has been ignored and has been placed at the bottom of the waiting list.

2. The respondents have filed a counter reply in which they have stated that after the death of Govt.employee, his widow had applied for appointment on compassionate basis and her name was included in the waiting list at Sl.No.53. Thereafter, she made a request that instead of herself, her son may be considered for compassionate appointment. It has been stated that at the time of death of Govt. employee, his son was studying in Class VI. When he became major, the widow made a request for substitution of his name in place of her name. Her request was accepted and the name of her son was substituted and included in the waiting list at Sl.No.82 (A) and the widow was informed accordingly vide letter dated 20.7.2001. It has been stated by them that while the widow was given the priority in the waiting list, based on the death of her husband in 1989, but the same seniority in the waiting list could not be given to her son as in 1989, he was minor and he attained the age of 18 years only in July,1996. He was accordingly given seniority with effect from the date he became major and his name was accordingly placed at Sl.No.82(A) of the waiting list. Thus, the grievance of Applicant No.1

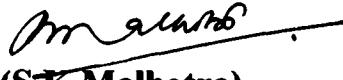
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that her son has not been assigned the appropriate position in the waiting list, is not tenable. He cannot be given appointment ignoring the claim of his seniors waiting for their turn for compassionate appointment.

3. I have heard the learned counsel for both the parties and have also gone through the pleadings.

4. It is not disputed that when the widow had applied for compassionate appointment, she was given seniority from the date of the death of her husband in 1989 as per procedure being followed by the respondent department. It would not be justifiable to accord the same seniority to her son who was only 11 years of age in 1989. He has, therefore, rightly been given seniority from the date he became major in 1996 and as such his name in the waiting list stands at Sl.No.82(A). He will be considered for appointment in his turn. The Court cannot direct the respondent department to ignore the claim of his seniors waiting in the list.

5. Considering the above facts and circumstances of the case, I do not find any merit in the OA and the same is dismissed without any order as to costs.


(S.K. Malhotra)
Member (A)

New Delhi
10.11.2004
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