

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.9693/2009**

% **Date of Decision: 08.01.2010**

Smt.Khagoti Devi Petitioner
Through Mr. Abhay Mani Tripathi, Advocate.

Versus

Union of India & Ors Respondents
Through Mr. Jitendra Kumar Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner has sought appointment of her son on compassionate ground contending that her husband while on duty had fallen seriously ill and he was absent from duty and his absence was treated as resignation. It is asserted by the petitioner that while in service both the kidneys of her husband were damaged and he was on daily dialysis. In the circumstances it is pleaded that her husband ought to had been retired on medical grounds, however, he was not retired and he superannuated and after he superannuated one of the son should be given appointment on compassionate ground.

The husband of the petitioner filed a writ petition being W.P(C) No.5520/2003 seeking a compensation of Rs.30 lakhs and a prayer that he be allowed to retain the Railway quarter on nominal rent. The husband of the petitioner had also sought that one of his son be given appointment with the respondent so that his treatment could continue. The writ petition was disposed of with liberty to the husband of petitioner to take such action as permissible in law in respect of his claim for recovery of compensation for Rs.30,00,000/- and for the claim of appointment of one of his son in the Railways.

The husband of the petitioner had, however, passed away on 6th April, 2007. After the death of the petitioner's husband an application was filed before the Tribunal for compassionate appointment which has been declined on the ground that the husband of the petitioner was never declared medically unfit during his entire service and he superannuated and he did not raise this dispute till the date of his retirement and he continued to get salary and other perks during his employment. The Tribunal also noted that only after retirement the plea of sickness and compassionate appointment had been raised.

The petitioner has therefore, challenged the order dated 3rd June, 2009 passed in O.A No.2665/2008, Smt.Khagoti Devi v. Union of India and ors. declining plea of the petitioner for appointment of her son on compassionate ground.

The learned counsel for the petitioner has contended that the husband of the petitioner should have been medically examined by an appropriate board which was to be constituted by the respondent. The learned counsel has, however, not been able to disclose as to what steps were taken by the deceased husband of the petitioner on account of alleged non constitution of the medical board. This also cannot be disputed by the petitioner that despite the alleged sickness her husband continued to attend the office and discharge his duties in normal course till he superannuated on attaining the age of superannuation. Compassionate appointment was also sought almost two years after superannuation.

The Tribunal has relied on State of J&K and Ors v. Sajad Ahmed Mir, 2006 SCC (L&S) 1195 holding that once it is proved that despite the death of sole breadwinner, the family survived and substantial period is over, it is not appropriate to carve an exception to the normal rule of appointment and to show favour to such a person or his prodigy ignoring many other deserving candidates. This cannot be disputed that the purpose of compassionate appointment is to give immediate succor and relief to the family who is shocked by the sudden death of the sole breadwinner of the family and the family is in extreme penury on account of death of breadwinner of the family.

The husband of the petitioner had passed away on 6th April, 2007 almost two years after his superannuation. In the circumstances, there are no grounds to grant compassionate appointment to the son of the petitioner in the facts and circumstances. There is no illegality or irregularity in the order of the Tribunal dated 3rd June, 2009 entailing any interference by this Court.

The writ petition is without any merit and it is, therefore, dismissed.

ANIL KUMAR, J.

January 8, 2010

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MOOL CHAND GARG, J.