

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) No.1549/2008

% Date of Decision: 26th February, 2008

Suresh Kumar Petitioner
! Through: Mr. Sudhir Mendiratta, Advocate

versus

\$ Union of India & Ors. Respondents
^ Through: Mr. R.N. Singh, Advocate

CORAM:

* **HON'BLE MR.JUSTICE MANMOHAN SARIN**

* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in the Digest?
yes

Manmohan Sarin, J. (ORAL)

1. Petitioner has filed this writ petition aggrieved by the order of the Central Administrative Tribunal dated 26th September, 2007 passed in O.A. No.1731/2007 by which the prayer of the petitioner for compassionate appointment following the death of his father was declined. Before we consider the submissions of the learned counsel for the petitioner, the facts in brief may be noted which are as under:

2. The petitioner's deceased father late Shri R.P. Kain was working as ACIO-II (Inspector) in the Intelligence Bureau. He

met untimely death on 17th November, 2001, leaving behind petitioner, three other sons, a daughter and widow. The petitioner's mother (widow of the deceased) also died in the year 2005. This has left the petitioner and his three brothers along with their sister as the surviving legal heirs. The sister of the petitioner has fortunately since been married. The eldest brother of the petitioner is stated to be employed and working with Indian Institute of Public Administration as a daily wager. It is further stated that the eldest brother lives separately with his family and does not offer any assistance to them. Learned counsel for the petitioner submits that accordingly the petitioner and his two younger brothers are left with no source of income. Whatever little income they were getting as pension received by their mother is also not available now. The terminal benefits of their deceased father have been used in the marriage of their sister and in making the payment of loans in the construction of their house where they reside. In these circumstances, learned counsel for the petitioner submits that the petitioner and his brothers are indigent persons who are unable to fend for themselves and therefore the petitioner's case is a deserving case for compassionate appointment.

3. It is well settled through a catena of judicial

pronouncements that there is no vested right in having a compassionate appointment. Compassionate appointment is offered by the State/employer to provide immediate relief and succour to the bereaved family in their hour of grief. It is not in the nature of any vested right to employment. Those who need the relief most and found to be in indigent and in compelling circumstances, get selected for compassionate appointment. The purpose is to provide immediate relief and the intent is not to create a line of employment, to be followed in succession. As per existing norms, the total number of vacancies which can be allotted for compassionate appointment are 5% of the vacancies arising in Group C and D posts. In the instant case, it is stated that 142 candidates were considered by the Committee and 6 recommendations were made. Petitioner's case did not qualify for recommendation on comparative merit. The criteria adopted by the authorities is generally either a weighted scale or consideration of the relevant factors like the liabilities, indigency of the family, the number of family members who are to be sustained, the availability of residence etc. As per record, the petitioner along with his brother has a place of residence. The petitioner and his brothers are all able-bodied young men. They are stated to be educated and major. There is no minor

daughter of the deceased. The liability of the sister of the petitioner is already taken care of. In these circumstances, it cannot be said that there would not be more deserving cases of hardship or indigency than the petitioner. Moreover, the death of the petitioner's father occurred in the year 2001 and a period of more than seven years has already elapsed. The case of the petitioner by the authorities was closed in the year 2004. The same after duly considering along with other applicants and the petitioner was not found deserving of compassionate appointment as compared to others. In these circumstances, we do not find this to be a fit case for interference in the exercise of writ jurisdiction. Dismissed.

Manmohan Sarin, J.

Veena Birbal, J.

February 26, 2008
srb