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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No.2378/2012

RAKESH KUMAR AND ANR Petitioners
Through Mr. Arun Sukhija, Adv.

versus

UOI AND ORS Respondent
Through Mr. Sunil Kumar, Adv. for UOI

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE G.P. MITTAL, J

ORDER
09.10.2012

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1. The instant petition has been filed by the widow (petitioner no.2) and son (petitioner no.1) of Shri Biram Singh who was working with the General Reserve Engineering Force as a Pioneer who expired on 28th March, 2002 leaving behind his widow and five children. The children of the deceased employee were aged about 14 years, 6 years, 3 years, 2 years and 1 year at the time of his death.

2. On 13th April, 2002, the respondents informed the petitioner no.2 that only a son could be granted the service on compassionate ground and that women could not get such service. It was further noted that about 150 cases wherein the same issue was raised, were pending consideration with the authority. It was further informed by a letter

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dated 13th April, 2002 that the appointment on compassionate grounds could be given only once the male dependent attains the age of 18 years.

3. The petitioner was subsequently informed by a letter dated 28th December, 2006 that as the application was not within the prescribed period of one year from the death of the deceased employee, therefore, the name of the petitioner no.2 could not be considered for compassionate appointment. Representations by the petitioner met the same fate necessitating the filing of the present writ petition.

4. Today, learned counsel for the respondents has placed before us a copy of the communication bearing no.12701/Comp Apptt/DGBR/08/EG2 dated 8th October, 2012 wherein it is stated as follows:-

"1. Competent authority has condoned the delay in view of DOP&T clarification F.No.14014/3/2011-Estt.(D) dated 26 Jul 2012 and directed to place the case of the applicant in the merit list so as to be considered in order of merit.

2. Hon'ble Court may be accordingly informed on next date of hearing.

3. Necessary direction in this regard has been issued to GREF Centre."

5. In view of the above, it would appear that the respondents are no more treating the case of the petitioner as delayed and the application is being considered by the respondents on its own merit. This issue

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was brought to our notice on 29th August, 2012 when a similar information was placed before us and we had directed the respondents to place the result of the consideration before this court. We had directed as follows:-

"1. It is submitted by learned counsel for the petitioner that no rejoinder is necessary.

2. The instant petition seeks consideration of the petitioner for compassionate appointment by the respondents as next of kin of Late Shri Biram Singh. In the counter affidavit which has been filed, the respondents have taken an objection that the writ petition is premature as no government order denying appointment to the petitioner has yet been issued. On the contrary, it has been specifically averred in paras 15 to 18 that the requisite documents/certificates received from the petitioner alongwith similar cases have been placed before the Board of Officers in the month of April, 2012 for ascertaining the eligibility criteria, the petitioner has secured 71 relative merit point out of 100 point scale and his recommended by the Board of Officers and approved by the competent authority in accordance with the instructions contained in the DOP&T Note dated 29th August, 2008 and the Headquarters DGBR letter dated 15th January, 2009. The respondents have stated that all cases including the petitioner's are pending for obtaining sanction for belated request from the competent authority and the board proceedings in this regard have been submitted to the Secretary, BRDB as back as on 27th April, 2012. As per the counter affidavit, this consideration is still pending.

3. A direction is, therefore, issued to the respondents to place the result of the consideration of the belated request for compassionate appointment before this court on the next date of hearing.

List on 9th October, 2012."

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The same has not been done so far.

6. In view of the above, we direct as follows:-

- (i) The respondents shall consider the case of the petitioner no.1 and pass an order on the application of the petitioner no.1 for compassionate appointment within a period of six weeks from today.
- (ii) In case the petitioner no.1 is still aggrieved by the order which is passed, it shall be open to the petitioner no.1 to assail the same in accordance with law.
- (iii) This writ petition is allowed in the above terms.
- (iv) Dasti to the parties.


GITA MITTAL, J

G.P. MITTAL, J

OCTOBER 09, 2012
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