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

+ W.P.(C) 11517/2016 & CM Nos.45317-18/2016

UNION OF INDIA AND ANR Petitioners

Through: Mr. Shailender Saini, Advocate

versus

KM. DIVYA GOSWAMI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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07.12.2016

There is a difference between the typed true copy of the impugned order dated 31.5.2016 and the photocopy of the same order.

In these circumstances, we would go by the photocopy of the impugned order dated 31.5.2016, whereby OA Nos.1434/2013 and 4339/2013 have been disposed of. The operative portion of the impugned order dated 31.5.2016, as far as photocopy is concerned, reads:-

“8. Taking all the facts into consideration, and particularly bearing in mind that the interest of the children cannot be prejudiced due to any act of omission or commission of their mother, I am of the firm opinion that the applicant is entitled for the compassionate appointment. I, therefore, direct the

respondents to consider the applicant for compassionate appointment in accordance with rules, subject to the condition that the applicant would submit an affidavit of her brother Rajat Goswami to the respondents to the effect that he has no objection to the grant of compassionate appointment to the applicant. The respondents are also directed to release other family benefits due to the applicant and her brother only, since her mother is stated to have got re-married.”

A perusal of the aforesaid direction would show that the Tribunal has only directed consideration of the applicant, i.e., Divya Goswami for compassionate appointment. This is subject to the condition that Divya Goswami's brother, Rajat Goswami would give no-objection certificate.

The petitioners had contested the OAs on the ground that the mother of Divya Goswami has remarried. However, this contention, in our opinion, cannot be a ground to deny consideration for compassionate appointment. This cannot, in the facts of the case, be a disqualification. The respondent, Divya Goswami, is the daughter of late Bharam Prakash Giri, who was murdered and had died an unnatural death on 29.10.2002. Mother of the respondent, Divya Goswami, in fact, was prosecuted for the murder of Bharam Prakash Giri, but has been acquitted.

We do not find any merit in the present writ petition, for the reason

that the respondent, Divya Goswami, cannot be denied compassionate appointment, for her mother has got remarried. The Tribunal, in our opinion, has not given any specific direction that compassionate appointment should be granted. The case of the respondent is to be considered in accordance with the scheme, without being influenced by the fact that the mother of Divya Goswami has remarried.

With the aforesaid observations, the writ petition is dismissed. CM Nos.45317-18/2016 are also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

DECEMBER 07, 2016

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