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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5029/2015**
SUNITA DEVI

..... Petitioner

Through: Mr. Sushant Mukund, Adv.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondent

Through: Mrs. Avnish Ahlawat, Adv. with Ms.
Palak Rohmetra, Adv. for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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20.09.2017

1. The present petition has been filed by the petitioner for a direction to the respondents to appoint her son on compassionate ground on the death of her husband. The husband of the petitioner, namely Brahma Pal Singh, who was working as Safai Karmachari with the respondent no.2 died in harness on October 19, 1998. Pursuant to his death, the petitioner applied for compassionate appointment for her son namely Shyam. As Shyam was a minor, respondent no.2 wrote a letter dated July 26, 1999 to the Deputy Secretary of the respondent no.3 Board conveying as Shyam is minor, he cannot be given an appointment till he attains 18 years of age. The Board was asked to keep a post of Safai Karmachari reserved for compassionate appointment in respect of Shyam.

2. It is the case of the petitioner that she has been conveyed by the respondent no.2 that there is no provision of age relaxation in the case of

appointment on compassionate ground. In any case, on March 24, 2004, after Shyam had attained majority representation was made to the respondent no.3 for appointing Shyam on compassionate ground. It is contended by the learned counsel for the petitioner that the petitioner has been making oral requests to the respondent nos. 2 and 3 for appointing Shyam on compassionate ground.

3. On July 15, 2014, a legal notice was got issued by the petitioner to the respondent no.3 for appointing Shyam or his brother namely Sandeep on compassionate ground. Respondent no.3 Board vide its communication dated July 25, 2014 conveyed to the petitioner that as there is no post vacant under the quota of compassionate appointment, there is no possibility to provide a job to her son on compassionate ground.

4. It appears certain applications under the RTI Act were made by Shyam seeking certain information from the respondent no.3. In one such application, information was granted with respect to the number of vacant posts in Group 'D' as 269. It is the contention of the learned counsel for the petitioner that against 269 posts, at least 13 posts are reserved for making compassionate appointment. In other words, there are sufficient vacancies for making compassionate appointment and as such the stand of the respondent no.2 that there are no vacancies is not tenable. It is his contention that the petitioner and her son are in penury. That apart, he would draw my attention to running page 72 of the paper book to contend that 13 compassionate appointments have been made by the respondents which reveals that the conduct of the respondents is discriminatory.

5. During the course of the hearing, I have enquired from the learned counsel for the petitioner as to how many children the petitioner has. Learned counsel for the petitioner on instructions conveyed that she has three children, out of whom the daughter and elder son have got married.

6. Mrs. Avnish Ahlawat, learned counsel appearing for the respondent no.3 would oppose the grant of compassionate appointment in the facts of this case. There is no dispute that respondent no.2 did convey to the respondent no.3 for keeping one post vacant. It appears final authority to grant compassionate appointment was respondent no.3.

7. Be that as it may, after the petitioner had applied for compassionate appointment vide her letter dated March 24, 2004, I note till 2014, no steps have been taken by the petitioner to pursue her application for compassionate appointment. This aspect surely would suggest that neither the petitioner nor her son were in any urgent need to have such an appointment. The intent of the compassionate appointment is to tie over a situation, which resulted in the sudden loss of an earning member in the family.

8. No explanation with proper evidence has been given by the petitioner for inaction during the period between 2004-2014 i.e. for ten long years. That apart, I note the petitioner could not marry her daughter and elder son in the interregnum. That apart, the reason given by the respondent no.3 for not granting compassionate appointment was on the ground that there is no vacancy for the same appears to be justified as the respondents have made approximately 12 appointments on compassionate ground, the last one

being on February 26, 2002, i.e., before the son of the petitioner Shyam had attained majority. It is not the case of the petitioner that respondents have made compassionate appointment after 2003.

In view of above, I do not think it is a case where the relief as prayed for can be granted.

The petition is dismissed.

No costs.

V. KAMESWAR RAO, J

SEPTEMBER 20, 2017/jg