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

+ **W.P.(C) 3608/2017**

KELO DEVI Petitioner

Through: **Mr.U.Srivastava, Advocate**

versus

GOVT OF NCT DELHI AND ORS. Respondents

Through: **Mr.Gautam Narayan, ASC with
Mr.S.Banerji and Mr.Negi, ACP
(PCR)**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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02.05.2017

1. The petitioner assails the order dated 01.12.2016 passed in O.A.4175/2015 by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) whereby the petitioner's Original Application has been dismissed. The petitioner had preferred the said Original Application in respect of the claim for compassionate allowance in respect of her deceased husband, who was employee of the respondent. The petitioner's late husband was removed from service after holding disciplinary proceedings on account of incorrigible conduct, namely, his unauthorised absence on 25 occasions in a short span of service of 15 years. The petitioner - widow sought compassionate allowance under Rule 41 of CCS, 1972 (Pension) Rules in respect of her deceased husband which was rejected by the respondents. Consequently, the petitioner assailed the

same before the Tribunal. In its order dated 07.04.2015, the respondents had observed that the petitioner's late husband had absented himself on 25 different occasions in a short span of 15 years of service and that apart he had also subjected to major penalty for his another misdemeanour. Keeping in view the overall facts of the case, the respondents stated that the case does not fall in the category of 'most exceptional circumstances' deserving grant of compassionate allowance.

2. The submissions of learned counsel for the petitioner is that the enquiry officer had found some justification for unauthorised absence of the late husband from duty, namely, the fact that he lost his mental balance and he was victim of circumstances. Learned counsel further submits that the Tribunal had failed to take note of the decision in ***Mahinder Dutt Sharma vs. Union of India & Ors.*** 2014 (3) SLJ 278 and a Division Bench judgment of this court in ***ASI Shadi Ram vs. Govt. of NCT of Delhi & Ors.*** in W.P (C) 5544/2007 decided on 22.02.2008.

3. We have heard learned counsel for the petitioner and perused the impugned order as well as the order passed by the respondents denying compassionate allowance to the petitioner in respect of her late husband. 'Compassionate allowance' as the words themselves suggest is granted by the employer out of compassion. It is for the respondents to determine as to whether a particular case is deserving of compassion keeping in view the guidelines laid down *inter alia* in ***Mahinder Dutt Sharma's*** case (*supra*). There is no vested right either in ex-employee or his heirs to claim compassionate allowance

irrespective of the circumstances in which the ex-employee may have been removed from service. If the said course of action was to be adopted, it would lead to sending a very wrong signal to the serving employees that they may eventually secure compassionate allowance which could be as high as 2/3rd of the pension despite being incorrigible in their conduct while in service and despite their being removed from service after enquiry. In the present case, the petitioner's late husband displayed incorrigible conduct of remaining absent on 25 different occasions in a short span of 15 years. He was subjected to another major penalty for his another misdemeanour

4. In these circumstances, we do not find any illegality either in the order of the respondents denying allowance in respect of late husband of the petitioner or the impugned order passed by the Tribunal calling for interference.

5. The petitioner is dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 02, 2017

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