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

+ LPA 198/2018 & CM APPL. 14238-39/2018 & 14283/2018

KAMLESH AHLAWAT & ANR Appellants

Through: Mr. Ravi Kumar, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Rajesh Gogna, CGSC for R-1 to
R-4.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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13.04.2018

The appellants' grievance is that the impugned order dismissing their writ petition overlooked certain salient facts and that the undertaking, agreed to be furnished by the learned counsel, was based on wrong assumptions.

One Mr. Dharam Pal was employed as an Upper Division Clerk with the Union Ministry of Social Justice & Empowerment; he died on 19.12.2013. To avail the benefit of the Central Government's policy enabling eligible legal representative/spouse of the deceased public servant to the compassionate appointment, his son, one of the appellants, applied for appointment. The non-appointment led him to approach the Central Administrative Tribunal. It is submitted that even as on date, the Central Government has not complied with the

LPA 198/2018

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order, which has constrained the appellants to initiate contempt proceedings. Those proceedings too are pending.

Learned counsel for the appellants contended before the learned Single Judge that during the pendency of the proceedings and having regard to the directions to appoint the deceased's son, they could be allowed to continue in the public premises/Type-II quarters allotted to the public servant (now deceased), which they continued to reside in.

Learned Single Judge, after considering the material on record, recorded his disinclination to grant the relief, however, he permitted the appellants to continue in the premises subject to their furnishing an undertaking that they would vacate it peacefully on or before 15.04.2018. It is now contended before this Court that the impugned judgment is in error because it overlooked the important rulings (*'Phoolwati vs. Union of India'*, AIR 1991 SC 469 and *'Sushma Gosain and others vs. Union of India'*, AIR 1989 SC 1976). It is contended that these two authorities unequivocally state that upon the death of a public employee immediate and expedient steps ought to be taken to process an eligible dependent to the vacant post falling under the direct recruitment quota and failure to do so will result in violation of their rights.

This Court has considered the submissions. The deceased public servant expired on 19.12.2013. No doubt, the appellants' claim for compassionate appointment succeeded before the Central Administrative Tribunal, however, the deceased's son has not yet been appointed. In the opinion of the Court the policies shown, and

which are part of the record, merely enable the category of individuals, such as to which the applicants belong, to continue in the premises for a certain period. They do not however, enable a claim that compassionate appointment would result in automatic allotment of the same premises.

For these reasons, the Court is of the opinion that there is no merit in the appeal; it is accordingly dismissed. However, considering the facts and circumstances of the case, the appellants can continue in the premises for a further period of two months ending 30.06.2018 subject to their furnishing an appropriate undertaking in this regard to the respondents within one week from today and the same shall also be filed in the Court.

Order Dasti.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 13, 2018

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