

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

Date of Decision: May 24, 2018

+ W.P.(C) 8490/2016

SUBHASINI KUMARI Petitioner
Through: Mr. Ram Kawar, Advocate

versus

UNION OF INDIA & ORS. Respondents
Through: Ms. Sangita Rai, SCGC, Ms.
Sunita Singh and Mr. Pradeep
Singh Tomar, Advocates for
R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

Petitioner is widow of *Shambhu Kumar* who was a confirmed employee i.e. Accountant with second respondent. It is so evident from the communication of 7th February, 2002 (Annexure A-5). *Shambhu Kumar* had died on 14th May, 2014 and after his death, petitioner vide application of 5th June, 2014 (Annexure A-12 colly.) had applied for compassionate appointment.

Petitioner relies upon Scheme for compassionate appointment (Annexure A-20) of second respondent. However, in the counter affidavit filed by second respondent, it is maintained that in the absence of any Scheme, no compassionate appointment can be made. The stand taken by the second respondent in the counter affidavit is that *Late*

Shambhu Kumar was engaged with second respondent on contractual basis. To assert so, attention of this Court is drawn by counsel for second respondent to Office Order of 21st February, 2014 (Annexure R-4).

Regarding the Scheme for compassionate appointment, (Annexure A-20), the stand taken by second respondent in the counter affidavit is that this Scheme appears to be of Government of India and there is no separate Scheme of second respondent to provide for compassionate appointment.

Upon hearing and on perusal of the material on record, I find that Bye-Laws (Annexure A-19) of second respondent throws light on the aspect under consideration. Bye-Law No. 9 of the aforesaid By-laws (Annexure A-19) reads as under:-

“The Society/Council shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of the Society.”

Since the stand taken by second respondent is that the Scheme for compassionate appointment (Annexure A-20) is of the Central Government, therefore a *mandamus* is issued to first respondent to call upon the second respondent to consider the case of petitioner under the aforesaid Scheme (Annexure A-20) as the object of said Scheme is to provide means of livelihood to the legal heirs of an employee who dies. Let compliance be made by the respondents within a period of twelve weeks and its fate be conveyed to petitioner within a period of two

weeks thereafter, so that petitioner may avail of the remedies as available in law, if need be.

With the aforesaid directions, this petition is disposed of.

Copy of this order be given *dasti* to counsel for respondent nos. 1 and 2 to ensure compliance of this order.

(SUNIL GAUR)
JUDGE

MAY 24, 2018

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