

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A/350/256/2015

Date of Order: 02.12.2019

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

1. Smt. Balika Bauri, widow of late Pravakar Bauri
Ex-Ug.Trackman/P.Way/DMA/S.E.Rly/Adra,
residing at Village Raghudeh, Post office –
Ramkanali, Police Station-Nituria, District –
Purulia, Pin – 723160.
2. Sri Bidhan Bauri, eldest son of Late Pravakar
Bauri, an unemployed youth aged about—years,
residing with the widow mother, younger sister
and only younger brother at the same address of
his mother

--Applicants

versus

1. Union of India, represented through the
General Manager, South Eastern Railway, 11,
Garden Reach Road, Kolkata- 700 043.
2. The Senior Divisional Personnel Officer,
South Eastern Railway, Adra, District –
Purulia, Pin 723160.
3. The Assistant Personnel Officer, South
Eastern Railway, Adra, District – Purulia,
Pin 723160.
4. The Senior Section Engineer (Permanent
Way)/DMA, Adra, District – Purulia, Pin
723160.

--Respondents

For The Applicant(s): Mr. A. P. Deb, counsel

For The Respondent(s): Ms. A. Basu, counsel

ORDER (O R A L)

Per: Dr. (Ms.) Nandita Chatterjee, Administrative Member

The applicants have approached this Tribunal seeking the following relief:

- "a) To direct the Respondents to consider Applicant No. 2 for employment on compassionate ground owing to the death of his father Late Provakar Bauri and who died in harness.
- b) To direct the Respondents to rely upon the Transfer Certificate submitted by the applicant no. 2 in support of his educational qualification as sufficient and genuine for consideration of his candidature for appointment on compassionate ground and ensure all official formalities towards the said purpose of appointment on compassionate ground and to allow the applicant to produce an affidavit to justify his actual date of birth.

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- c) To quash the order dated 25.06.2014 passed by the Senior Divisional Personal officer, South Eastern Railway, Adra.
- d) Costs or incidental to and arising out of this application.
- d) Any other order or orders as your Lordships may deem fit and proper by way of molding reliefs.
- e) Applicant be allowed to move this application jointly u/r 4(5)(a) of CAT (Procedure) Rules."

2. Heard rival contentions of both ld. counsel, examine pleadings and annexed documents. No rejoinder is found on record.

3. The submissions of the applicant, as made through her ld. counsel, is that, the applicant no. 1 is the spouse of a deceased employee of the respondent authorities, who died in harness on 29.08.2010. Her son, applicant no. 2 herein, applied for compassionate appointment, but his prayer was rejected on 22.11.2013, on the ground that the Transfer Certificate, on the basis of which the applicant had claimed his education status as well as date of birth, could not be established as genuine. The applicant challenged the said rejection in O.A 121/2014 which was disposed of on 06.03.2014, whereby, this Tribunal quashed and set aside the rejection order with liberty to the respondents to issue a fresh order, disclosing the materials on the basis of which the respondents have arrived at the conclusion that the Transfer Certificate was not genuine.

In compliance thereof, the respondents issued another order dated 25.06.2014, impugned in the present OA, wherein the respondent authorities disclosed that the applicant no. 2 is ineligible to obtain employment assistance on compassionate ground in view of the CPO/GRC's circular dated 19.04.2010, as applicant no. 2 had fabricated his Transfer Certificate with the dishonest intention of cheating the respondent authorities with confusing documents with respect to his date of birth. Aggrieved by the speaking order dated 25.06.2014, the applicant has approached this Tribunal praying for the abovementioned relief.

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4. The respondents have disputed the claim of the applicant robustly by submitting as follows:

i) Upon the expiry of the deceased employee, his widow, applicant no. 1, had nominated her elder son, applicant no. 2, for compassionate appointment.

ii) Applicant no. 2 had applied for employment assistance supported by Transfer Certificate issued by Head Master of Dumuriakuri Madhyamik Siksha Kendra, Purulia in which his date of birth has been shown as 12.05.1990 and his educational qualification as Class VIII pass vide T.C. No 13 dated 24.12.2011.



iii) The widow of the deceased employee, applicant no. 1, had, however, submitted B.N-160 form showing undernoted family composition:-

Sl.	Name	Relationship	Age (DOB)
1	Smt. Balika Bauri	Wife (widow)	01.01.1967
2	Sri Bidhan Bouri	Son	25.02.1988
3.	Kumari Pratham Bouri	U/M Daughter	07.04.1990
4	Sri Sidhan Bouri	Son	01.01.1992
5.	Smt. Santosi Bouri	M/Daughter	01.06.1986

The widow also submitted other associated documents to prove the genuineness of her claim.

Upon verification, it transpired that, while the widow, applicant no. 1, had declared in the B.N-160 form that her eldest son, applicant no. 2, was born on 25.02.1988, the Transfer Certificate as obtained from the Head Master of Dumuriakuri Madhyamik Siksha Kendra, Purulia declared his date of birth as 12.05.1990.

iv) The respondent authority decided to ascertain the genuineness of the applicant's claim, particularly, on the date of birth of the applicant, and, field inspection was conducted at the concerned Dumuriakuri Madhyamik Siksha

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Kendra, Purulia to verify the genuineness of the Transfer Certificate issued therefrom. The Head Master of Dumuriakuri Madhyamik Siksha Kendra, Purulia certified that, Shri Bidhan Bauri, applicant no.2, had been admitted to his institution on 22.02.2011 in Class VIII, without any previous Transfer Certificate from any educational institution, and, that, Shri Bidhan Bauri's date of birth was ascertained from birth certificate issued by the Pradhan Babugram Panchayat. The Head Master further certified that the Transfer Certificate issued on 24.12.2011 in favour of Bidhan Bauri was genuine.

v) Upon query, Shri Bidhan Bauri, applicant no. 2, stated in writing that he had read up to Class-VI in Rangadanga High School and submitted a TC bearing No. 49 dated 24.06.2008, wherein his date of birth was noted as 25.02.1988, and his academic qualification was shown as "reading in Class VII" i.e Class VI pass.

Upon verification with the authority in Rangadanga High School at Muradi, the Head Master of the Rangadanga High School certified that Bidhan Bauri, applicant no. 2, had been admitted in his school in the 1999-2000 session and his date of birth was recorded as 25.02.1988 in the admission register. The Head Master of the said institution also certified that the Transfer Certificate bearing No. 49 dated 24.06.2008 was genuine.

vi) The respondents argued vociferously that the applicant no. 2 knowingly took admission in the Dumuriakuri Madhyamik Siksha Kendra, Purulia on 22.02.2011 after his father's demise, without submitting his earlier transfer certificate from the Rangadanga High School so as to suppress his actual date of birth and to obtain a later date of birth in his Transfer Certificate from the Dumuriakuri Madhyamik Siksha Kendra, Purulia to avail benefits of compassionate appointment by fraudulent means.

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vii) The respondents would also contend that from the admission of his widow mother, applicant no. 1, in the B.N-160 form, the date of birth of the eldest unmarried daughter of the ex-employee, Kumari Pratham Bouri, would be only 1 month and 5 days later than the birth of his son Bidhan Bauri, applicant no. 2, in case the date of birth as revealed in the Transfer Certificate of the Dumuriakuri Madhyamik Siksha Kendra, Purulia is taken to be correct.

viii) Accordingly, the respondents having come to the conclusion that applicant no. 2 was trying to obtain appointment through fraudulent means and rejected his prayer for appointment in a speaking order in which they would assert as follows:



Adra Dated 25.06.2014

Reg: Implementation of Judgement/order dated 06.03.2014 passed by the Hon'ble CAT/Calcutta Bench in O.A no. 350/00121 of 2014- Balika Bouri & Anr. -vs- Union of India & Others.

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On investigation for verifying the genuineness of Educational Qualification of Sri Bidhan Bouri, it is noticed that-

At first, Sri Bidhan Bauri has submitted one Transfer Certificate bearing No. 13 dated 24.12.2011 issued by Headmaster, Dumuriakuri Madhyamik Siksha Kendra, wherein his date of birth is shown as 12.05.1990 and educational qualification as class-VIII pass.

After that, Sri Bidhan Bauri has submitted one another Transfer Certificate bearing No. 49 dated 24.06.2008 issued by the Headmaster, Rangadanga High School at Muradi, Purulia wherein his date of birth is shown as 25.02.1988 and educational qualification shown as "reading in Class-VII(Seven)" i.e Class VI Pass.

Previous status vide Transfer Certificate No. 49 dated 24.06.2008 of Rangadanga High School when he was reading in class -VIII (Seven) not passed. Now hiding the Transfer Certificate, he took admission in Class-VIII in Dumuriakuri Madhyamik Siksha Kendra without passing Class-VII (Seven) and altering his date of birth from 25.02.1988 to 12.05.1990. As a result of which biological age gap with other family member (Kumari Pratham Bouri, date of birth 07.04.1990) has been infringing as per B.N.160, which was submitted by you.

In view of the above facts and circumstances, it is understood that it is a clear case of fabrication of transfer certificate and the dishonest intention of candidate prior to appointment in Railway. Moreover, you are supporting him with clear intention to deceive the railway Administration and avail the benefit of employment assistance by foul and unfair manner.

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As per CPO/GRC's Circular No. P/Rectt/Poly/Comp/L/237 dated 19.04.2010 appointment on compassionate ground are not being considered in favour of Ward/Widow/Widower who are claiming such appointment by submission of false documents and certificates in support of their educational qualification, caste, status, relation with the deceased family members etc., if detected during the enquiry. Persons who are trying to get appointment in Railways by adopting corrupt practices, even before joining organization would definitely cause greater harm to the organization in future when they join by adopting corrupt means. The Railway does not need such person in its roll.

Keeping in view of CPO/GRC's circular dated 19.04.2010, you were already intimated vide this office letter dated 22.11.2013 that your son Sri Bidhan Bouri is quite ineligible to get employment assistance on compassionate ground. It is a case of fabrication of transfer certificates and the dishonest intention of the candidate by hiding the pervious transfer certificate and altering his date of birth from 25.02.1988 to 12.05.1990.

The compassionate appointment is not a right. It is only compassion subject to fulfilment of eligibility, genuineness of information/evidence enclosed by the candidate along with his application, financial background etc.

But, you and your elder son Sri Bidhan Bouri have once cheated the Railway Administration for getting employment assistance on compassionate ground by submitting fake and false certificate in support of his date of birth and educational qualification. Hence, question of employment assistance on compassionate ground in favour of your son Sri Bidhan Bauri in the light of CPO/GRC's letter dated 19.04.2010 does not arise.

Hence, your such claim is thus disposed of without extension of such benefit to any member of your family including yourself and Bidhan Bouri (applicant no. 2) and the case is treated as close."

4. It is undisputed that the date of birth of applicant no. 2 is not 12.05.1990. Applicant no. 2 had stated that his date of birth was 25.02.1988 in writing, the same had been certified by the Headmaster of Rangadanga High School and the respondents have not disputed the same. It is also obvious that the applicant had tried to conceal his actual date of birth by taking admission after the expiry of his father, extrapolating a period of almost 2 years on the basis of a certificate purportedly issued by the concerned Panchayat on his date of birth. Hence, although the Headmaster of Dumuriakuri Madhyamik Siksha Kendra certified the T.C. No. 13 dated 24.12.2011 as genuine, no reliance can be placed on the same as it is contradicted upfront by the contentions of widow mother, applicant no. 1, in the B.N 160 form, the apparent absurdity in the age gap of Bidhan Bauri and his unmarried sister

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born in 1990 and also the certificate issued by the Headmaster of Rangadanga High School.

5. The respondent authorities are hence directed to consider the claim of the applicant No. 2 for compassionate appointment on the basis of his date of birth recorded as 25.02.1988 in TC NO. 49 dated 24.06.2008 issued by the Headmaster, Rangadanga High School and to thereafter consider his eligibility as per Rules untrammelled by their earlier speaking order dated 25.06.2014 wherein the fraudulent action of applicant No. 2 in procuring the transfer certificate from the Dumuriakuri Madhyamik Siksha Kendra has been established unequivocally.

6. The concerned respondent shall thereafter decide on the eligibility of the applicant no. 2 on the basis of the TC No. 49 dated 24.06.2008 issued by the Headmaster, Rangadanga High School and pass a reasoned and speaking order, in accordance with law, within a period of 16 weeks from the date of receipt of a copy of this order.

7. With these directions, the O.A is disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Baherjee)
Member (J)