

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/332/2018

Date of Order: 11.5.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Rina Tiwari, daughter of Triloki Nath Tiwari, wife of Mukesh Upadhyay, aged about 27 years, by faith - Hindu, by occupation - unemployed, permanent resident of C/o - Durgesh Upadhyay, village and post - Devkali, Bahadurpur, Near Yash Public School, Janeshwar Mishra Park road, district - Ballia, Uttar Pradesh - 277001.

Applicants

Versus

1. Union of India, service through the Secretary, Ministry of Defence, New Delhi - 110011.
2. The Director General of Ordnance Factory & Chairman/Secretary, Ordnance Factory Board, 10A, S.K. Bose Road, Kolkata - 700001.
3. The General Manager, Rifle Factory, Ishapore, Ishapore - Nawabganj, North 24 Parganas - 743144.

Respondents.

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

For The Respondent(s): Ms. D. Nag, counsel

O R D E R

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsels for the parties.

The claim of the applicant for employment assistance on compassionate ground has been rejected with the following order dated 24.08.2017 by the Works Manager (Admin) on behalf of the General Manager, Rifle Factory, Ishapore. The order dated 24.8.17, reads as under;

"To

Ms Rina Tiwari
D/o Late Triloki Nath Tiwari
c/o Shri Mukesh Upadhyay
Post+Vill - Deokali Bahadurpur
P. S - Sukhpura, Dist. Ballia

Pin - 277001, UP.

Sub: Appointment on Compassionate ground

Ref: Your letter dated 10.08.2017.

It is informed that candidature of a married daughter seeking employment assistance on compassionate ground is to be governed by DOP&T FAQ No. 14014/02/2012-Estt (D), Dt. 30.05.2013. The relevant portion is reproduced below:

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|---|---|
| <p><u>Whether a married Daughter can be considered for compassionate appointment?</u></p> | <p><u>Yes:</u> <u>But subject to conditions</u></p> <p>1. <u>That she was wholly dependent on the Govt. servant at the time of his/her death in harness or retirement on medical grounds.</u></p> <p>2. <u>She must support other dependents members of the family.</u></p> |
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The above instruction of DOP&T is valid till date. Hence your request cannot be acceded to in view of prevalent DOP&T's instruction mentioned above.



Sd/-----
Works Manager/Admin
For and on behalf of the General Manager."

3. Aggrieved, the applicant has sought for the following reliefs:

- (a) An order do issue directing the respondents to act and proceed in accordance with the provisions of law.
- (b) Office Orders being No. 05/CA/2015-16/DLC dated 11.07.2016 and No. 05/CA/2015-16/DLC dated 24.08.2017 issued by the respondent No. 3 is not tenable in the eye of law and therefore the same maybe quashed.
- (c) An order do issue directing the respondents to show cause as to why the candidature of the applicant for her employment assistance o compassionate ground under the respondents will not be considered.
- (d) An order do issue directing the respondents to grant an appointment on compassionate ground in favour of the applicant at an early date since her father died while he was in service.
- (e) Costs and incidentals
- (f) An order do issue directing the respondents to transmit all the records relating to his case along with all the documents before this Hon'ble Court so that on perusal of the same the concessionable justice may be administered.
- (g) Such further or other Order or Orders be passed and/or Direction or Directions be given as Your Lordships may deem fit and proper."

The grounds for challenge being as under:

- (i) Married daughter comes within the ambit of the expression "family".

(ii) The purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread-earner of the family and to get or tide over with such situation, the case of the applicant may be considered for employment assistance on compassionate ground.

(iii) She fulfils all the criteria of the DOPT circular that she was dependent upon the income of his late father and she will look after/support all the dependent members of the family and relying upon the settled proposition that a married daughter is entitled to be considered for compassionate appointment.

(iv) Hon'ble Larger Bench of Hon'ble High Court at Calcutta, in FMA 1277 OF 2015 with WPST 447 of 2013 with WPST 70 OF 2014, had been pleased to observe that the restriction on married daughters being eligible to apply and to be considered for compassionate appointment is likely and has, in fact, given rise to a legitimate grievance of the minds of married daughters, who fortunately are not looked after by their husbands, perforce have to take shelter in their parental/maternal home, survive on the benevolence showered by their fathers/mothers (Government Employees) and owing to untimely demise of the Government employees, are left high and dry along with other members of the deceased family who have to depend on such married daughter to feed and provide the basics to cover their body. Hon'ble Court had been further pleased to observe that complete exclusion of married daughters from the purview of compassionate appointment, meaning thereby that they are not covered by the definition of 'dependent' and ineligible to even apply, is not constitutionally valid.

(v) The applicant was dependent upon the income of her father even after her marriage and she is looking after all the dependent members of the family and as such she fulfils the criteria of the DOPT Circular.

4. The respondents have averred that Smt. Rina Tiwari did not fulfil condition no. (i) of the table supra, as she is married and used to reside with her husband Shri Mukesh Upadhyay since 02.05.2014, which was prior to the death of her father late T.N. Tiwari. Hence the applicant was not dependent on Late TN. Tiwari at any point of time. Moreover, as per condition no. (ii) of the table supra, other family members of the deceased govt. servant two daughters apart from the applicant in the instant O.A were married at the time of his death. *Ipso facto* there was no such dependent family member at the time of the death of the wage earner to have imposed severe financial hardship having been faced with an untimely death.



5. Records were perused. The DOPT FAQ is explicit on the right of a married daughter to seek employment assistance that,

- i. That she was wholly dependent on the Govt. servant at the time of his/her death in harness or retirement on medical grounds.
- ii. She must support other dependents members of the family.

6. The applicant has not elaborated why she should be considered as dependent of her father. At hearing, ld. counsel for the applicant claimed that she was driven out of her matrimonial home. She has failed to demonstrate the following:

- (i) that she was wholly dependent on her father.
- (ii) She has other family members, of her father to support.

7. Having considered the matter in entirety, I am of the considered opinion that the applicant should cite documents in support of her claim that she was wholly dependent on her father and prefer representation at the earliest opportunity.

8. The competent authority shall look into her grievance and pass a reasoned and speaking order within 4 months of its receipt. OA is accordingly disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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