

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCHALLAHABAD.
* * *Allahabad This The 31 Day of May, 2000

Original Application No. 1439 of 1997

CORAM:

Hon'ble Mr. S. Biswas, A.M.

1- Smt Nafeesa Begam widow of Late Mohd Siddiq resident
of 21, Mohalla Aligol, Jhansi. (U.P.)2- Mohd Idris son of Late Mohd Siddiq resident of 21,
Mohalla Aligol, Jhansi (U.P.)

.....Applicant

(By Advocate: Sri M.P. Gupta, Sri S.K. Misra)

Versus

1- The Union Of India through the General Manager,
Central Railway C.S.T. Mumbai (Maharashtra)2- The Divisional Railway Manager, Central Railway,
Jhansi U.P.

.....Respondents

(By Advocate: Sri P. Mathur)

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O R D E R

(By Hon'ble Mr. S. Biswas, A.M.)

Applicant 1, widow of the deceased Late Mohd. Siddiq, and applicant 2, son of the deceased seek quashing of letter dt 28-4-97 of Respondent 2 (annexed to the OA) and further direction to the Respondents for compassionate appointment.

2- Heard the parties. Certain undisputed facts have emerged from the submissions of the rival parties which are as follows.

3- Mohd. Siddiq, a railway employee died in harness on 30-4-84 when he was working as a goods-porter in Central Railways Jhansi. He was survived by his widow, one of the applicants. One daughter and four sons, one of whom is the second applicant. The children were minor. Shortly after attaining the age of 18, the eldest son, applicant No. 2 submitted a representation to the respondents on 30-6-88 for compassionate appointment on a class III post. The said representation was rejected by the respondents on the limited ground that the applicant had applied 2 years after the second applicant had attained the age of 18 years. The respondents had then submitted that they had received the first applications on 29-5-95 when two years had already passed after the applicant 2 had become major. The respondents did not acknowledge receipt of their first application dt. 30-6-88 to which a direction was given to apply after the second applicant became 18. The applicants had filed O.A. 1473/95 on rejection of their application. This O.A. was disposed of with the direction that after inquiry into the financial conditions of the family, a suitable compassionate appointment be given to the 2nd applicant. Rejection if any should be made with a speaking order. This case was decided on 14-12-95 on 28-4-97, the

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respondent 2 received the claim of compassionate appointment on the ground that all the four sons of the deceased were working, earning about Rs. 1,500/- per month. The total income of the family was held to be Rs. 4,000/- per month including a family pension of Rs. 1,200/- to the widow, p.m. Further it was alleged that they had purchased a house of Rs. 42,000/-.

4- The applicants counsel had clarified that the family is living in this house taken on rent when the Mhd Siddiq was alive. The said house was purchased with the retirement benefit which was deposited in FDR and on maturity they received Rs. 43,100/- As they had no other house to live, the said money was spent for the house. All the more reason they are now having nothing left of the retirement benefit. and hence, the respondents have wrongly worked out the family income taking the interest earning of their ^{deposited} money.

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5- The applicant has contended that it is factually incorrect to say that any of these four sons of the deceased is employed anywhere. They are not earning anything. In fact the financial conditions of the family have become worse.

6- The applicant has contested findings of the respondents on the financial condition of the family by filing an affidavit. The following alleged facts have been sworn in the affidavit, "Faseeuddin is the maternal uncle of the deponent and the deponent is not at all employed with him and is not earning Rs. 500/- p.m. as alleged. It is also incorrect to say that the younger brother of the deponent is working in the workshop of one Guddu Jain and is getting Rs. 1,500/- p.m. Md. Sameer is unemployed and is wholly dependent upon mother. It is wholly incorrect to say that Md. Khurshed the third son of the applicant No. 1 is earning Rs. 20 to Rs. 50 per day. This son of the family is also unemployed in wholly dependent on his mother."

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7- Thus the enquiry report of the welfare Inspector has been challenged as factually incorrect. As it is a question of bread and butter of a large family, such inquiry ought to have been conducted before them, and they should have been given an opportunity to test these evidence and materials, if any. The same were gathered or made in their back to materially harm and deprive them of this legal right to a compassionate appointment. The method applied by the respondents are far from fair and hence the order warrants to be quashed. They have no objection to a fresh inquiry in their presence and they should be permitted to question and counter these evidence face to face with the inquiry officer.

8- The applicants prayer has force as it is a matter of their bread and butter. The inquiry on the means and financial conditions which are bound to go against the applicants in the situation, as they have denied them to be factually correct with sworn ~~is~~ data, in my view, the inquiry ought to be transparent and not secret. The assistance of the applicants should have been taken to arrive at an undisputable fact which is tentatively missing.

9- The Hon'ble CAT had already on merits allowed their earlier OA. Hence ~~of~~ the question ^{eligibility} other than the financial conditions, in respect of the claim is settled. No dispute need be entertained at this stage. The stage for going into ^{citatus} of the cases, Asharam Chandel Ambekar vs. U.O.I. and Umesh Kr. Nagpal vs. State of Haryana made by the respondents, is over. The eligibility of the claim except financial means test is already a settled issue in OA 1473/95. This is infact not to be treated as a fresh case.

10- The claim of the applicant in the case still continue to hang on the financial question, which in my view has not been determined satisfactorily. In the result, I dispose of the ^{OA} ~~way~~ with the following ^{discretion} ~~order~~. The impugned letter dt. 26-4-97 of Respondent 2 is quashed. The case of inquiry into the financial condition of the family is remanded for fresh inquiry to be reconstituted by at least

two inspectors, one should preferably be from an outside deptt, like the Income Tax deptt- to meet the end of justice. On the basis of the findings to be given by the inquiry within 2 months of receipt of this order, the respondent 2 ^{shall on merit} ~~shall~~ give the order of compassionate ^{Post 50} ~~allowance to~~ applicant ^{to} a suitable within one month after receipt of the ¹⁵⁰ enquiry report.

In case the Respondent 2 decides to reject a speaking order should be passed.

No costs.

S. Dinesh
A.M.

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