



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 138

M. A. 350/97/2018  
IN THE MATTER OF:

1. **SMT. BIVA RANI MITRA**, wife of Late Nirmal Kanti Mitra, aged about 65 years, died in harness before retirement on 08.09.2004 while he was working to the post of Examiner under the General Manager, Gun & Shell Factory, Cossipore under Ministry of Defence, Government of India, and residing at Shyama Prasad Pally, Post Office- Purba Putiary, Police Station- Regent Park, Kolkata-700093;
2. **BIVAS MITRA**, son of Late Nirmal Kanti Mitra, aged about 37 years, residing at Shyama Prasad Pally, Post Office- Purba Putiary, Police Station- Regent Park, Kolkata-700093;

...APPLICANTS

-VERSUS-

1. **UNION OF INDIA**, service through the Secretary, Ministry of Defence (Defence

Production), Government of India, -South  
Block, New Delhi-110001;

2. THE DIRECTOR GENERAL -CUM-  
CHAIRMAN, Ordnance Factory Board,  
having his office at 10A, Shaheed Khudiram  
Bose Road, Kolkata- 700001.

3. THE GENERAL MANAGER, Gun & Shell  
Factory, Cossipore, Government of India,  
Ministry of Defence, Kolkata- 700002;

4. THE DEPUTY GENERAL MANAGER  
(ADMINISTRATION), Gun & Shell Factory,  
Cossipore, Government of India, Ministry of  
Defence, Kolkata- 700002.

5. THE SENIOR GENERAL MANAGER, Gun  
& Shell Factory, Cossipore, Government of  
India, Ministry of Defence, Kolkata- 700002.

...Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA

No.O.A.350/138/2018  
M.A.350/97/2018

Date of order : 7.9.2021

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member**

1. BIVA RANI MITRA  
2. BIVAS MITRA  
VS.  
UNION OF INDIA & OTHERS  
(DEFENCE)

For the Applicant : Mr. P.C. Das, counsel  
Ms. T. Maity, counsel

For the Respondents : Mr. B.P. Manna, counsel

ORDER

**Bidisha Banerjee, Judicial Member**

Ld. counsel for both sides were present and were satisfied with the quality of audio/video during hearing.

2. This matter was taken up by Single bench in view of the revised list dated 04.04.2000 issued under Sub-Section (6) of Section 5 of the Administrative Tribunals Act, 1985. As no complicated question of law was involved, the matter was taken up for disposal with the consent of both the parties.

3. The M.A.350/97/2018 which is for permission to file joint application under Section 4(5)(a) of C.A.T.(Procedure) Rules, 1987, stands allowed.

4. The O.A. has been preferred by the widow and son of Late Nimai Kanti Mitra seeking the following reliefs:-



"a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal(Procedure) Rules, 1987;

b) To quash and/or set aside the impugned speaking order dated 30.03.2017 issued by the General Manager, Gun & Shell Factory, Cossipore by which the General Manager, Gun & Shell Factory, Cossipore rejected the claim of the applicants by taking into consideration of the terminal benefits as well as pensionary being Annexure A-19 of this original application;

c) To quash and/or set aside the impugned speaking order dated 20.05.2017 issued by the General Manager, Gun & Shell Factory, Cossipore by which the General Manager, Gun & Shell Factory, Cossipore rejected the claim of the applicants by ignoring the decision rendered by the Hon'ble Supreme Court in the case of Canara Bank Vs. M. Mahesh Kumar being Annexure A-20 of this original application;

d) To quash and/or set aside the impugned speaking order dated 31.10.2017 issued by the General Manager, Gun & Shell Factory, Cossipore by which they prepared impugned score sheet by taking into consideration the terminal benefit and/or pensionary benefit and by giving the score points which is not permissible in the eye of various decisions passed by the Hon'ble High Court as well as Hon'ble Supreme Court being Annexure A-21 and A-22 of this original application;

e) To pass an appropriate order directing upon the respondent authority to consider the case of the applicant No.2 for grant of compassionate appointment in view of the decision passed by the Hon'ble High Court at Calcutta dated 17<sup>th</sup> September, 2010 in the case of Sujit Kumar Datta-vs-United Commercial Bank reported in 2011(4)CHN(CAL), page 38 and to grant appointment in favour of the applicant No.2 against any suitable Group-C post to save the acute financial hardship of the family of the deceased employee;

f) To quash and/or set aside the impugned DOPT's office memos dated 09.10.1998 and 26.07.2012 and Defence's Circular dated 09.10.1998;

g) Costs;

h) Any other relief or reliefs as Your Lordship may deem fit and proper."

5. At hearing on 08.04.2021 it was submitted by the respondents' counsel that the respondent authorities decided to consider the prayer of the applicants for employment assistance on compassionate ground to Sri Bivas Mitra (applicant No.2) and that their case would be placed in the next meeting of the committee for consideration. In support the respondents have placed the minutes of such consideration made for the period from January,2021 to March, 2021 against one available



vacancy. Sri Bivas Mitra(applicant No.2) figures at Serial No.23 of the list of candidates considered for the purpose. One Sk. Saddam who secured the highest marks amongst the candidates was considered and recommended for employment on compassionate ground. Consideration of the cases for employment assistance on compassionate ground for the previous years have also been placed on record. Said Sk. Saddam was at Sl. No.7 in April, 2019 to June, 2019 list whereas Sri Bivas Mitra figured at Sl. No.27 of the said list of candidates and the consideration was for 2 available vacancies. The comparative assessment of the candidates has not been provided.

6. In view of the fact that the respondents have decided to reconsider the matter and the applicant has not disputed the manner in which the scores were given, the O.A. is disposed of with a direction upon the respondent authorities to place the matter for reconsideration as assured, furnish the comparative assessment of the candidates considered by the Board to the applicants and in the event the applicants feel aggrieved in regard to assessment made they shall be at liberty to agitate the matter before the authorities in an appropriate manner.

7. The O.A. stands disposed of with the aforesaid liberty. No costs.



(Bidisha Banerjee)  
Judicial Member