

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



OA. 350/987/2016

Date of order: 04.03.2021

Present : **Hon'ble Ms. Bidisha Banerjee, Judicial Member**

1. Juthika Rabidas, widow of late Shyamlal Rabidas, aged about 52 years, Duley para (Jelepara), Post Office- Ichapur, Nawabgang, Dist- 24 PGS (N), Pin- 743144.
2. Pravat Rabidas, son of late Shyamlal Rabidas, aged about 52 years, Duley para (Jelepara), Post Office- Ichapur, Nawabgang, Dist- 24 PGS (N), Pin- 743144.

.....Applicant.

-versus-

1. The Union of India, service through the Secretary, Ministry of Defence(Defence and Production), Govt. 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, Metal and Steel Factory, Ishapore, Post Office- Nawabgang, Dist- 24 PGS (N), Pin- 743144.



4. The Works Manager/Assistant Works Manager (Administration), Metal and Steel Factory, Ishapore, Post Office- Nawabgang, Dist- 24 PGS (N), Pin- 743144.

.....Respondents.

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

For the Respondents : Mr. K. Prasad, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Heard Id. Counsel for both sides.

3. This application has been filed by the applicant to seek following reliefs:



"8(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

(b) To quash and/or set aside the impugned dated 26.11.2015 issued by the Sr. General Manager, Metal & Steel Factory, Ishapore by which the claim of the applicants has been rejected on the ground which is not applicable in the present case and also reliance has been placed upon the decisions of the Hon'ble Supreme Court which is not applicable in view of the latest decision passed by the Hon'ble Supreme Court in the case of **Canara Bank & Anr. vs. M. Mahesh Kumar** reported in AIR 2015 (SC), Page 2411 where the Hon'ble Supreme Court held that terminal benefits cannot be taking into consideration for the purpose of giving compassionate appointment.

(c) To pass an appropriate order directing upon the respondent authority to grant the compassionate appointment in favour of the applicant No. 2 who has secured 89 marks but the persons

concerned more than 45 candidates who got compassionate appointment within the period 2002 to 2009 and not only than in the 45 candidates not a single candidate has scored 89 marks but despite the fact that the applicant no. 2 obtained 89 marks and due to penurious condition of the family of the deceased employee, the case of the applicant no. 2 has not been considered by the respondent authority in terms of Annexure A-19 which is a hostile discrimination by violation of Article 14 and 16 of the Constitution of India and on that ground itself, the applicant No. 2 is entitled to get compassionate appointment and his appointment should be given effect with effect from the date when the other persons have got the same along with all consequential benefits."

4. At hearing, Id. Counsel for applicant would allege discrimination meted out by the respondent authorities to the applicant vis-à-vis other candidates having stated as under:

- (a) Despite scoring high points, during the year 2000-2006, her case has been rejected by the respondent authorities on the pretext that the judgement passed by the courts varies from person to person.
- (b) During the said period, she had scored 89 points but she was not provided compassionate appointment.
- (c) During the aforesaid period, more than 45 candidates, whose scores varied from 50-88, were given compassionate appointment.



5. It appears from the impugned order dated 26.11.2015 that the Board Of Office awarded 69 points out of 100 points scales to the applicant by taking into consideration the different parameters in terms of MOD letter dated 09.03.2001 and it was the first consideration of the applicant. According to the speaking order, compassionate appointment could not be offered to the applicant no. 2 due to his lower merit position, as the cut-off score for the year was 73. Thereafter, for a second time, the case was further placed before the Board of Officers in the year of 2004 when the applicant was awarded 89 points out of 100 points scale, and the applicant was even recommended for appointment on compassionate ground but at the time of recommendation for appointment the

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instant case had crossed over 5 years. Hence, the applicant no. 2 could not be offered employment assistance.

6. Ld. Counsel for applicant would then place a list of compassionate appointees during the January, 2000 to May, 2000 as annexed in Annexure A-20 to the OA, which shows that compassionate appointments were offered by the department to those, who had scored much less than 69 marks, the list is as under:

COMPASSIONATE APPOINTMENT DURING THE YEAR JANUARY 2000 TO MAY 2000

Sl. No.	Name	Desig/Sec	Date of appointment	Annexure
				Scoring marks
01	Shri Ganesh Bansfore	Lab(U.Sk)Y&E	28-07-2000	71
02	Smt. Shama Devi	Lab(U.Sk)Y&E	28-07-2000	62
03	Smt. Ganga Devi	Lab(U.Sk)Y&E	28-07-2000	69
04	Shri Hemanta Gayen	Lab(U.Sk)Y&E	29-07-2000	51
05	Smt. Sashikata Paswan	Lab(U.Sk)Y&E	29-07-2000	76
06	Smt. Rangini Murre	Lab(U.Sk)Y&E	01-08-2000	53
07	Km. Kanan Sarkar	Lab(U.Sk)Y&E	01-08-2000	51
08	Sk. Akbar Ali	Lab(U.Sk)Y&E	01-08-2000	55
09	Sk. Abdul Gaffar	Lab(U.Sk)Y&E	01-08-2000	55
10	Shri Maharej Oron	Lab(U.Sk)Y&E	01-08-2000	68
11	Shri Pradip Kumar Kahar	Lab(U.Sk)Y&E	29-08-2000	70
12	Shri Tarak Jaiswara	Lab(U.Sk)Y&E	06-09-2000	70
13	Smt. Munni Das	Lab(U.Sk)Y&E	29-02-2001	57
14	Shri Kashem Ali Mondal	Lab(U.Sk)Y&E	02-07-2001	53
15	Shri Gouram Mondal	Lab(U.Sk)Y&E	02-07-2001	50
16	Shri Shambhu Kumar Shaw	Lab(U.Sk)Y&E	02-07-2001	57
17	Km. Sharmistha Shome	Lab(U.Sk)Y&E	02-07-2001	56
18	Smt. Puhul Jeshorara	Peon/Orderly M.O.	31-01-2002	79
19	Smt. Bandani Orew	Safamater/Y&E	06-02-2002	53
20	Shri Suresh Kumar Shaw	Durwan/S.O.	06-02-2002	83
21	Smt. Ashutosh Chatterjee	Peon/M.C.	31-01-2002	72
22	Shri Bidyut Kumar Yadav	Durwan/S.O.	10-01-2005	60



Sl. No.	Name	Design/Sec	Date of appointment	Scoring marks
23	Smt. Madhaba Des	Lab(U.Sk)/Y&E	09-05-2005	70
24	Smt. Kizeli Guha	Lab(U.Sk)/Y&E	09-05-2005	81
25	Zafar Imam	Lab(U.Sk)/Y&E	09-05-2005	68
26	Anjan Oraon	Lab(U.Sk)/Y&E	09-05-2005	79
27	Shri Jawahar Malla	Lab(U.Sk)/Y&E	09-05-2005	75
28	Shri Sunil Kumar Kahar	Lab(U.Sk)/Y&E	09-05-2005	67
29	Shri Chandresh Ahir	Lab(U.Sk)/Y&E	09-05-2005	71
30	Smt. Kishmarul Nisha	Lab(U.Sk)/Y&E	09-05-2005	79
31	Shri P. Saram	Lab(U.Sk)/Y&E	09-05-2005	81
32	Shri Jayanto Shaw	Lab(U.Sk)/Y&E	09-05-2005	69
33	Shri Chandra Seithar Chamar	Lab(U.Sk)/Y&E	09-05-2005	66
34	Shri Dipak Sharma	Lab(U.Sk)/Y&E	09-05-2005	68
35	Shri Rintu Halder	Lab(U.Sk)/Y&E	09-05-2005	68
36	Shri Deep Kumar Singh	Lab(U.Sk)/Y&E	09-05-2005	66
37	Shri Bikash Chandra Mondal	LDC/BILLS	16-05-2005	72
38	Smt. Usha Kewal	Lab(U.Sk)/Y&E	18-05-2005	96
39	Smt. Sumita Sengupta	LDC/LB	01-06-2005	58
40	Smt. Beauty Sarkar	Lab(U.Sk)/Y&E	03-06-2005	68
41	Shri Santosh Kumar Kumar	Lab(U.Sk)/Y&E	14-06-2005	57
42	Smt. Smita Chakraborty	Lab(U.Sk)/Y&E	20-07-2005	66
43	Smt. Phumoni Soreng	Lab(U.Sk)/Y&E	21-07-2005	76
44	Shri Samarjit Singh	Lab(U.Sk)/Y&E	26-07-2005	69
45	Shri Anku Dushad	Lab(U.Sk)/Y&E	05-10-2005	76

It is evident that even, in 2000, at least 6 candidates who scored way below 69, were granted appointment.

Ld. Counsel would therefore allege that the employee having passed away on 05.07.1998 was no reason for not placing the case of the applicant before the Board of Officers in 1999 and 2000 when the applicant submitted her application in the year of 1998 itself.



7. At hearing, Id. Counsel for respondents would very fairly submit that the respondents are willing to consider the matter in terms of availability of vacancies, in view of the fact that the score of the applicant is quite high and the applicant was not considered in the year of 2000.

It is also evident from the list of Annexure A-20 of the OA, that even in 2001, persons with the scores of 50 and 52, way less than the applicant, have been considered and granted appointment whereas the applicant has been made to languish for no valid reason.

8. Therefore, discrimination meted out to the applicant is palpable and the authorities have inarguably and evidently not acted bonafide.

Therefore, I would direct the respondent authorities to make an honest endeavour to grant an appointment to the applicant no. 2 on compassionate ground, issuing an appropriate order in accordance with law, within a period of 3 months from the date of receipt of a copy of this order, untrammelled by their previous rejections, keeping in mind that the 5 years' time limit has already been done away with.



9. Thus the OA would stand disposed of. No costs.

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(Bidisha Banerjee)
Member (J)