

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**



O.A./350/01438/ 2020

Dated: 11.02.2021

M.A./350/00718/2020

M.A./350/00719/2020

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. N. Chatterjee, Administrative Member**

1. Sabita Kumbhakar,
Wife of Late Swapan Kumbhakar,
Ex. LDC (Lower Division Clerk),
had worked under Income Tax Department,
CIT, KOL-XVIII, Range -49, Kolkata
aged about 52 years,
and residing at 70/6A, Purbachal Road,
P.O. – Haltu, P.S. – Garia,
Kolkata – 700078.

2. Rupai Kumbhakar,
Daughter of Late Swapan Kumbhakar,
Aged about 26 years,
Unemployed youth,
Residing at 70/6A, Purbachal Road,
P.O. – Haltu, P.S. – Garia,
Kolkata – 700078.

..... Applicants.

Versus

1. Union of India,
Service through the Secretary,
Ministry of Finance,
Govt. of India,
New Delhi - 110011.
2. The Principal Chief Commissioner
of West Bengal, Ayakar Bhawan,
P-7, Chowrighee Square,
Kolkata – 700069.
3. The Assistant Commissioner of Income Tax,
Head Quarters,
Personnel & Establishment,
Kolkata – 700069.

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..... Respondents.

For the applicant : Mr. K. Sarkar, Counsel

For the respondents : Ms. S. Sarkar, Counsel



ORDER

Per : Bidisha Banerjee, Judicial Member

Ld. Counsels were heard.

2. An M.A. bearing No. 350/00719/2020 has been filed praying for joint prosecution under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

Since the applicants share a common interest, this Miscellaneous Application is allowed subject to payment of individual court fees.

Another M.A. bearing No. 350/00718/2020 has been filed seeking condonation of delay. On being satisfied with the reasons assigned in the application, the delay is condoned and the M.A. is allowed.

3. This application has been preferred by the widow and daughter of the deceased employee Swapan Kumbhakar, to seek the following reliefs:

"8.a) to issue direction upon the respondents and their men and agents to grant an appointment of the applicant No. 2 on compassionate ground forthwith;



b) to issue further direction upon the respondents and their men and agents to produce the connected departmental records for the year 2014-15 and 2015-16 at the time of hearing;

c) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

4. Their grievance in a nutshell is as under:

That against the vacancies for the year 2015-16 the applicants was intimated that their case for compassionate appointment would be

6




considered after a year. They were further intimated that their case for compassionate appointment will be considered in the vacancy year 2016-17 but no order was issued. That in 2018 the respondents had further assured applicant No. 2, that her case was under consideration but no appointment was granted. That, the representation of the applicant No. 1 has not been considered till date. That since November '2013 the applicants are eagerly, waiting for appointment on compassionate ground. Aggrieved with inaction or non-action they have preferred this OA.

5. The facts pleaded are as under:

That the husband of applicant No. 1, namely Swapan Kumbhakar, (Ex. LDC, under Income Tax, CIT, KOL-XVIII, R-49) was suffering from Lung Cancer and passed away on 05.10.2013. After the death of her husband the applicant No. 1 preferred representation to the respondent No. 2 for the grant of compassionate appointment dated 29.10.2013 as they had source of income and family was reeling in penurious circumstances after the sad demise of their only bread winner. Applicant No. 2 was doing graduation and pursuing BSC 2nd Year and they were fully dependant on the earning of deceased. Since a family pension had not started.

That, the Government of West Bengal, office of the Sub-Divisional Officer, South 24 Parganas has certified on 24.07.2010 that the applicant No. 2 is an Other Backward Class (OBC).

That date of birth of the applicant No. 2 is 18.10.1994 and which has been duly certified by the CMC, Health Department.



That, Rupai Kumbhakar (Applicant No. 2) appeared in the Board of Secondary Education (Madhyamik Examination 2010) and Xerox copies of the Admit Card, Mark Sheet and Certificate of West Bengal Council of Higher Secondary Education, BSC Result, Result of MSC, Certificate of Degree of BSC for the year 26.06.2015 have been submitted to the authorities alongwith No Objection Certificate.

That the DCIT, Head Quarter (Pers and Estt), Kolkata for PCCI, W.B. had informed vide letter to the applicant No. 2, dated 26.03.2015 that her case for compassionate appointment would be considered. She was directed to furnish the detailed information and proforma, duly verified by the concern DDO or Head of Office where the deceased was posted last and the copy alongwith the following:

- a) Proof in respect of Date of Birth,
- b) Proof in respect of Educational Qualification of all Examination passed,
- c) Certificate in respect of SC/ST/OBC/PH etc, if any,
- d) Age proof in respect of Minor Children,
- e) If any, of the deceased.
- f) Attested a copy of the proof of pension amount and terminal benefits (GPF Balance/ Gratuity/ Leave Encashment/ Group Insurance).
- g) No Objection Certificate of other dependents of the deceased against regarding employment of the applicant on compassionate ground.



In accordance with the above letter dated 26.03.2015 the applicant duly furnished all her documents and on 06.07.2015, the applicant No. 1 has further informed to the DCIT, Head Quarter (Pers. & Estt) Kolkata, Aayakar Bhawan, Kolkata that she has been graduated with B.Sc. (Hons.) in 2015 of Calcutta University and she intimated for upgradation of Educational Qualification from Higher Secondary to Graduation.

The applicants have also duly submitted the Pension Payment Order on 16.12.2015.

That thereafter on 28.11.2016 the Assistant Commissioner of Income Tax, Head Quarter (Pers & Estt) Kolkata had informed to the applicant No. 2 that she would be considered for appointment on compassionate ground against the vacancies for the recruitment year 2015-2016 subject to recommendation by the Selection Committee constituted for the purpose. She was once again requested to fill up the proforma duly verified by the DDO or Head of Office where the deceased was posted last.

The applicants duly filled up the proforma that was received on 14.12.2018 which forms Annexure "A-7".

Further, the applicant No. 1 received a letter from the Asstt. Commissioner of Income Tax, HQ., (Pers & Estt) Kolkata dated 28.05.2018 that they have decided to consider appointment on compassionate ground under exceptional circumstances to a dependant member of the family of the Government servant – dying in harness to relieve the family of a Government servant from financial destitution and to help them to tide

over the emergency, subject to recommendation by the Selection Committee which forms Annexure "A8".



Thereafter their incessant pleadings, representations requests and enquiries failed to break the ice.

That the aged ailing mother of the deceased and the two other family members applicant No. 1 and applicant No. 2 are fully dependent upon the family pension of the applicant No. 1. A major portion of the settlement dues had already been exhausted as the mother of the deceased is aged and ill suffering from various physical problems, the family is virtually reeling under penurious circumstances. As such they have prayed for the reliefs.

6. The records were perused.
7. It is discernible that since 2013 the family had been kept under a legitimate expectation of a job for applicant No. 2, and the family have sincerely nurtured the hope to be bestowed with one. No order has been issued till date.
8. Therefore, it is directed that the respondents in consideration of the prayers of the applicants and the assurance given to them time to time, shall issue an appropriate order in accordance with law in favour of applicant No. 2, within 3 months from the date of receipt of a copy of this order.

The present O.A. accordingly stands disposed of. No costs.


(Dr. N. Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member

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