

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/1378/2019
M.A/350/801/2019

Date of Order: 28.07.2021

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

1. Smt. Chanda Mahato, aged about 50 years, wife of Late Mahesh Mahato, who died in harness before retirement on 22nd March, 2010 being Ticket No. 2735 – P& D while he was working in 507 Army Base Workshop at Kankinara, 24-Parganas (North) and residing at Naya Basti, Jalkal Road, Post Office & Police Station – Barrackpore, District – 24-Parganas (South), Pin-700120;

2. Mr. Raju Mahato, son of Late Mahesh Mahato, aged about 35 years, residing at Naya Basti, Jalkal Road, Post Office & Police Station – Barrackpore, District – 24-Parganas (South), Pin-700120;

... Applicants

-VERSUS-

1. Union of India service through the Secretary, Ministry of Defence, South Block, New Delhi-110001.

2. The Director General of Electronics and Mechanical Engineering (Civil), MGO's Branch IHQ of MoD (Army), DHQ PO, New Delhi-110105.

3. The Commanding Officer, Headquarter's Base Workshop, Group-EME, Meerut Cantonment-01, Pin-250001.

4. The Commanding Office, 507 Army Base Workshop, Kankinara, P.O. ESD (M), 24-Parganas (North), Pin-743126.

..Respondents.

For The Applicant(s): Mr. P. C. Das, counsel
Ms. T. Maity, counsel

For The Respondent(s): Ms. P. Goswamin counsel

ORDER (ORAL)

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

Heard ld. counsel for both sides.

M.A for joint prosecution is allowed.



2. This application has been preferred to seek 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 order dated 30th July, 2019 issued by the Director General of Electronics and Mechanical Engineering (Civil), MGO's Branch IHQ of MoD(Army), DHQ PO, New Delhi-110105 by which the case of the applicants has been rejected without issuing any appointment order under compassionate appointment quota on the ground that the applicants could not make up in relative merit against the ceiling of 5% quota due to constraints on inadequate vacancies being Annexure A-15 of this original application;

c) To quash and/or set aside the impugned order dated 21st August, 2019 issued by the Commanding Officer, 507 Army Base Workshop, Kankinara, P.O. ESD (M), 24-Parganas(North), Pin-743126 by which they directed the applicants to apply afresh for granting appointment on compassionate appointment quota in favour of the applicant No. 2 without complying the order dated 13.02.2019 passed by this Hon'ble Tribunal in OA No. 350/211/2019 being Annexure A-16 of this original application;

d) To quash and/or set aside the decision of the respondent authority in respect of not recommending the case of the applicants for granting compassionate appointment despite the facts that the applicants fulfilled all the formalities as asked by the respondent authority and their conditions are so penurious that unless the appointment on compassionate ground is provided in favour of the applicant No. 2, the entire family of the deceased employee will be starving seriously which cannot be compensated by anything and despite the earlier order passed by this Hon'ble Tribunal dated 13.02.2019 in OA No. 350/211.2019 regarding issuing of the order of appointment under compassionate appointment quota in favour of the applicant No. 2 within a specific time. In terms of the order dated 13.02.2019, the respondent authority bypassing the same are depriving the applicants by not issuing the appointment order under compassionate quota in favour of Applicant No. 2, without doing so, they have advised the applicants to apply afresh for granting compassionate appointment under compassionate appointment quota which is illegal and arbitrary in respect of the action of the respondents;

e) To pass an appropriate order directing upon the respondent authority to recommend the case of the present applicants before appropriate respondent authority for granting appointment on compassionate ground so that the applicants can be protected from penurious and starving condition due to sudden demise of the sole bread-earner;

f) Since the respondent authority recommended the case of the applicant No. 2 for issuance of the appointment order by virtue of the order dated 13.02.2019 passed by this Hon'ble Tribunal in OA No. 350/211/2019, the respondents be directed to issue the appointment order on compassionate ground in favour of the applicant No. 2 as expeditiously as possible to save the distress and penurious condition of the family of the deceased;

g) Costs;



h) Any other relief as Your Lordship may deem fit and proper;"

3. At hearing, ld. counsel for the applicants would draw attention to a communication dated 21.08.2019 (Annexure A-16 to the O.A) and contended^β that the case of the applicant had been recommended for appointment with the order dated 21.08.2019.

4. Ld. counsel for the respondents would draw our attention to an order dated 30.07.2019 at Annexure R-1 to the reply, which shows that the case of the applicant was considered by the BOOs in the Annual Board for transitional year 2018 held with effect from 15 July 2019 to 17 July 2019, however, the applicant, who stood at Serial No. 7, could not make it in terms of relative merit against the ceiling of 5% quota due to constraints of inadequate vacancies and thus could not be selected.

5. Ld. counsel for the applicant alleges that although the applicant figures at Serial no 7 in the said list, persons/candidates below him in the list have been granted appointment.


6. Both the ld. counsels agree that the matter can be disposed of by directing the competent authority to consider the case of the applicant in terms of the recommendations and his enlistment in the order dated 30.07.2019 (Annexure R-1 to the reply) against the vacancies as and when available.


7. In our considered view, a representation if preferred by the applicant drawing attention to the alleged violation of the seniority list of the recommended persons/candidates as contained in Annexure R-1 to the reply can be considered and disposed of within a period of 4 weeks from the date of receipt of a copy of this order.



It is made clear that we have not entered into the merit of the matter and all the points are kept open for consideration.

8. With the above directions, the O. A stands disposed of. No costs.


(Nandita Chatterjee)
Member (A)


(Bidisha Banerjee)
Member (J)

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