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RESERVED

Central Administrative Tribunal
Allahabad.

Registration T.A.No.589 of 1986 (Original suit no.1784/1983)

Bandhu since deceased and another ... Plaintiffs

Vs.

Union of India Defendant

Hon.D.S.Misra,AM
Hon.G.S.Sharma,JM

(By Hon.G.S.Sharma,JM)

This original suit has been received by transfer from the Court of VII Additional Munsif Gorakhpur under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The suit was initially filed by Bandhu and his major son Khaderu, plaintiff no.2 for a declaration that the plaintiff no.2 Khaderu is entitled to be considered for his employment in class IV service against 20 per cent vacancies reserved for the employment of the sons of loyal railway servants and for a direction to the defendant to consider his appointment against the said vacancies. It is alleged in the plaint that the deceased plaintiff Bandhu was in the employment of N.E.Railway as Turner and in the strike of the railway employees in 1974, he was a ~~loyal~~ loyal railway servant and did not resort to strike the work. In 1974, the Railway Minister had announced a policy to give appointment to the sons and daughters of such railway employees who remained loyal and did not participate in the strike of 1974. On the basis of the said policy, the plaintiff no.2 is entitled for his appointment after his attaining the majority and as the railway authorities

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did not consider the request of the plaintiffs, the present suit was filed after serving with a notice under section 80 of the Code of Civil Procedure.

3. The defendant contested the suit on various grounds. It disputed the fact that during the strike of the railway employees in 1974, the plaintiff no.1 was a loyal worker and had not gone on strike. It was further alleged that under the letter dated 16.7.1976 of the Railway Board, the applications received upto 31.12.1975 only against 29 per cent quota for the sons and daughters of loyal railway servants were to be considered and finalized before 30.9.1976. The plaintiff no.2 was a minor at that time and as such, he could not be considered for appointment under that policy. During the pendency of the case, the plaintiff no.1 however died on 4.11.1984 and his widow and two minor sons were brought on record as his legal representatives. After the death of Bandhu, the defendant gave appointment to the plaintiff no.2 on compassionate grounds.

4. At the time of hearing of this case before us, the learned counsel for the plaintiffs admitted that the plaintiff no.2 Khaderu has been given the employment in the Railway Department but he prayed that his mother should also be given an appointment on the ground of mercy as the plaintiffs are very poor persons. This request was opposed on behalf of the defendant and it was contended that no such appointment can be given to the widow of the plaintiff no.1 under the law or the rules of the railway administrat-

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ion. We have carefully considered the contentions raised on behalf of the parties before us and are of the view that on the basis of the allegations made in the plaint, the plaintiffs have no case for appointment of any other plaintiff in the railway service. This case has to be considered and decided on the basis of the pleadings of the parties and as there is no prayer in the plaint for the employment of any other plaintiff and no ground, whatsoever, for such appointment has been pleaded, we are unable to give any such direction to the defendant merely on the basis of mercy ~~pleaded~~ before us. In our opinion, after the appointment of plaintiff no.2, the case has become infructuous and does not require any other order or direction from this Tribunal.

5. In view of the above considerations, the suit has become infructuous on the giving of the employment by the defendant to the plaintiff no.2 and it is accordingly dismissed without any order as to costs.

MEMBER (A)

Blmne
20/8/87

MEMBER (J)

Sub-arena
20/8/87

Dated: Aug, 20, 1987
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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Review Application No. 2/B/T of 1988

On behalf of

Phekni widow of Bandhu Applicant.

IN

Registration (T.A.) No. 589 of 1986

Bandhu (since deceased) & another ... Plaintiffs.

Versus

Union of India Defendants.

Hon'ble Justice K. Nath, V.C.

Hon'ble K.J. Raman, A.M.

(By Hon. Justice K. Nath, V.C.)

The case has been called. No one is present for the applicant. Sri Lalji Sinha is present for the respondents.

2. We have gone through the review application and the judgment sought to be reviewed. It appears that the original case was filed by Bandhu, plaintiff no.1, and his son Khaderu, plaintiff no.2, for a declaration that the ~~latter~~ was entitled to be considered for employment in class IV service of the railways against a quota reserved for employment of sons of loyal railway servants. During pendency of the case Bandhu ~~died~~, and thereafter ~~compa~~ionate appointment in the railways was given to Khaderu. At the time of hearing of the case by the Bench, a prayer was made that Bandhu's widow, Smt. Phekni, the review-applicant, may also be given appointment on the ground of mercy. The Bench held that the plaintiff had no case for appointment of Smt. Phekni and that the case had become infructuous so far as Khaderu was concerned, because he had already ^{been} given appointment during pendency of the case.

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3. The review application does not make out any legal ground for interference with the judgment under review. It is accordingly dismissed.

John Cannon

MEMBER (A).

John

VICE-CHAIRMAN.

Dated: May 8, 1990.

PG.