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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 295 of 1994

Date of Decision: 24.10.1994

Smt.P.Choudhury & another

Applicant(s)

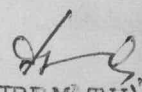
Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *yes*


(D.P.HIREMATH)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 295 of 1994

Cuttack this the 24th day of October, 1994

C O R A M:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

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1. Smt. Premalata Choudhury, aged
about years,
W/o. Late Nilakantha Choudhury
2. Satya Priya Choudhury, aged
about 23 years,
S/o. Late Nilakantha Choudhury
At/PO: Lalita Pahandi
Dist : Puri, PIN 752045

Applicant/s.

By the Advocate: M/s. K.P. Mishra
B.S. Tripathy
Alok Das
S. Mallick
N. Sarkar

Versus

1. Union of India, represented
through the Secretary to the
Government of India,
Ministry of Finance (North Block)
New Delhi-1
2. The Chairman,
Central Excise Board of Revenue
(Direct Taxes), New Delhi
3. The Collector, Central Excise
Calcutta-II
15/1, Strand Road, M.S. Building
Calcutta-31

Respondent/s.

By the Advocate: Shri Ashok Mishra,
Standing Counsel (Central)

O R D E R

D.P. HIREMATH, V.C.: One Shri Nilakantha Choudhury, a Sepoy in the Central Excise Department, Calcutta, died while in service on 28.6.1986 leaving behind him the petitioner No.1, Premalata, a widow and his minor son, petitioner No.2, Satya Priya. That son was born on 29.4.1973 and hence was about 13 years

of age when his father died. The tale of ^{live} ~~move~~ started for petitioner no.1, the moment her husband died and she started making representations to respondent 3, viz., Collector, Central Excise, Calcutta, from December, 1989 to give some appointment to her minor son on compassionate grounds in the Department. Though initially there was no definite material before the Department with regard to exact date of birth of the 2nd petitioner, after it was furnished, the Deputy Collector, Central Excise, Calcutta called the 1st petitioner for an interview by the letter dated 9.11.1992 vide Annexure-6 to appear before him for an interview with all the testimonials ^{regarding} ~~as~~ proof of age, his educational qualification, declaration of property and a fresh Form Part I & II duly filled in for further action. This was complied with immediately thereafter as per Annexure-7 and ultimately on 25.6.1993 she received a letter drawing ^{contains} a final ~~order~~ on the whole episode rejecting her prayer. She then made a representation to the Chairman of the Central Excise Board of ~~Revenue~~, New Delhi dated 12.10.1993 (vide Annexure-9). She stated clearly therein how she implored on the Chairman in that letter to just realize how a widow passes her days after the death of her husband who dedicated his life most sincerely in the Department and she expected the Department to favourably consider the case of her only son, i.e. 2nd petitioner, for appointment in a suitable job. I am given to understand ^{that} though nearly one year has elapsed ^{after} ~~of~~ this representation was sent nothing has been heard of ^{from} ~~on~~

the Board. After exhausting these avenues the petitioners have filed this application praying for a direction to the respondents to appoint petitioner no.2 to a suitable post. As the averments in the petition traverse mostly events leading to the last representation to the Chairman, it is unnecessary to repeat those averments here. It is however stated that without assigning any reasons her representation has been rejected.

2. In the counter filed by the Additional Collector, Central Excise Department, on behalf of the Respondent 3, it is stated inter alia that later enquiry of the family status of the petitioners established that their economic condition was very poor and the case was put upto Collector for consideration, but the then Collector rejected the case on the ground that many years have passed after the death of the deceased and since the family could live so long it is not a right case for compassionate appointment. This was so stated in the letter of 9.12.1987. As desired by the Board Proformas Part-I and Part-II were submitted by the deceased's son and there was enquiry report as per letter dated 9.2.1994.

3. It is interesting to note that though the Chairman Central Excise Board who appears now to be seized of the matter has been impleaded as the 2nd respondent, he has not filed any counter. The facts narrated above clearly reveal that though the Department is satisfied about the pitiable condition in which the family of late Nilakantha Choudhury have been placed after his death,

and though satisfied about the appalling condition of the family as revealed from the counter, still, solely on the ground that there was some delay in approaching the authorities, application was rejected earlier. However, the 2nd thought was given to the whole matter and the Board which ought to have taken a decision in all promptness in a case of this nature appears to have sat tight over the papers without passing any order for the last nearly nine months after necessary papers by way of information were sent to the Board. The learned counsel for the petitioner Shri K.P. Mishra, invited my attention to the decision of the Orissa High Court in the case of Smt. Kodal Bewa & another vs. Orissa State Electricity Board (74 (1992) C.L.T. 286) in which even when there was no scheme prevalent at the time the application came to be considered, the learned Judges directed that no schemes were framed to look after the hardship following death of the sole bread-earner of the family and therefore, non-existence of any such scheme preparation of which might have got delayed for various reasons cannot stand in the way of the Court as enforcer of Article 21 of the Constitution. They also pointed out that the word "life" would include livelihood to direct in a fit case to employ a member of such family on compassionate ground. He also relied on the decision of Supreme Court in the case of Phoolwati vs. Union of India & Others (AIR 1991 SC 469) in which the Supreme Court directed that appointment on compassionate ground should not be delayed.

4. In reply Shri Ashok Mishra, learned Senior Standing Counsel (Central) while could not dispute the facts leading to filing of this application, only stated that the matter is pending before the Chairman of the Board. It is rather unfortunate that though the first petitioner has been agitating her case to get the compassionate appointment for her son since 1989 due attention has not been given at least after petitioner no.2 attained majority in the year 1991. Though the Collector was satisfied about the pitiable condition of the family, respondents cannot now take shelter under the plea that the matter is pending before the Board which in my considered view has not at all given due attention that matters of this nature require. There is practically no reason as to why for nearly one year the Board slept over the matter and has not apprised the Tribunal by way of counter as to at what stage the representation is. In my view therefore, this is an eminently fit case in which the Tribunal should step into arrest further misery to the helpless widow and son of deceased Nilakantha Choudhury who are striving to get some succour ever since his death. Silence and indifference of the Board towards its duty to take expeditious decision reflects lack of humane approach.

✓ 5. It is unnecessary to direct the Board to expedite consideration of the petitioner's representation as so far the Board has not shown any sympathy or concern towards miseries of the petitioners. That being so the application has to be allowed and is allowed and the

respondents are directed to appoint the 2nd petitioner Satya Priya Choudhury, son of late Nilakantha Choudhury in a post which his educational qualification would permit within three months from the date of receipt of a copy of this order. Hand over a copy of the order to the petitioner's counsel and respondents' counsel forthwith. No costs.



(D.P. HIREMATH)
VICE-CHAIRMAN

B.K.Sahoo//