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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 565 of 1994

Cuttack this the 8th day of December, 1995

Binapani Panda ... Applicant(s)

Versus

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

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


P.V. Venkata Krishnan
(P.V. VENKATKRISHNAN)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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Cuttack this the 8th day of December, 1995

C O R A M:

THE HONOURABLE MR. P. V. VENKATKRISHNAN, MEMBER (ADMINISTRATIVE)
(ERNAKULAM BENCH)

...

Binapani Panda, aged 34.
Daughter of Late J.N.Panda
Vill: Dandamukundapur
PO: Dandamukundapur
Dist: Puri

...

Applicant

By the Advocate: Mr. U. B. Mohapatra

Versus

1. Union of India represented by
The General Manager,
South Eastern Railways,
Garden Reach, Calcutta
2. Chief Personnel Officer
South Eastern Railways
Garden Reach, Calcutta
3. Divisional Railways Manager,
South Eastern Railways
Khurda Road Division
At/PO: Jatani, Dist: Khurda
4. Divisional Railway Manager
South Eastern Railways
~~At/PO: Chakradharpur Division~~
At/PO: Chakradharpur
State: Bihar
5. Divisional Personal Officer
South Eastern Railways
Khurda Road Division
At/PO: Jatni, Dist: Khurda
6. Sr. Divisional Personal Officer (Engg.)
South Eastern Railways
Chakradharpur Division
At/PO: Chakradharpur, State: Bihar

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Respondents

By the Advocate: Mr. B. Pal

ORDER

MR. P.V. VENKATKRISHNAN, MEMBER (ADMN) : Applicant who is the daughter of a retired employee of the South Eastern Railways has preferred this application praying ~~that~~ ^{for employment} under the Scheme of grant of employment of assistance for the wards of retired employees. Her father retired on 1.10.1981. By Annexure-3 dated 28.9.1981, applications were called for from retired employees for employment assistance for their wards and it was stipulated that applications should be sent before 4.10.1981. Applicant contends that by Annexure-24 her father applied on 4.10.1981. Applicant also alleges that ~~the~~ ^{1 a} person who had retired on 1.7.1983 after her father retired ~~has~~ ^{has} been given employment assistance in the form of employment for his daughter. Applicant made several representations and before that her father had also made several representations, but without any success for the last 14 years. Applicant contends that her father is no more and that she is under difficult circumstances and as the railway authorities did not consider her case for such a long period, she has approached this Tribunal for giving her employment assistance by relaxing her age.

2. Respondents plead that the case is barred by limitation. However, I see that there is no particular point of time at which the cause of action is said to have arisen in the case of the applicant.

In my view the question of limitation does not arise in this case.

3. The Respondents mainly urged three grounds on which the application is sought to be rejected.

The first is that the application from the applicant's father was not received before the due date of 4.10.1981.

It is true that when the ^{Original} Application was filed the earliest application produced on behalf of the applicant was dated 26.11.1981 (Annexure-2). However, in the rejoinder, applicant has produced one more application

(Annexure-24) dated 4.10.1981. ^{By this time}

The circular Annexure-3 prescribes only a period of one week within which the information regarding the scheme is supposed to be conveyed by the present workers to the retired employees and the retired employees are to submit certain particulars required in the notice.

One week for this purpose is certainly unreasonable, especially when the circular Annexure-3 is not addressed to the retired employee, but it is left to the present employee to convey it to the retired employee. In fact the circular is addressed to Inspector of Works, who in turn is supposed to give a wide publicity among the present workers. Besides, the logic of prescribing 4.10.1981 as the cut-off date for application in a scheme which has been obviously continuing from 1975 is certainly not acceptable. I, therefore, consider that rejection of the case of the applicant on the ground of any cut off date of 4.10.1981 is not

reasonable.

4. The second objection of the respondents is that applicant's father had furnished false information regarding employment of his son in the railways. The particulars called for in Annexure-3 prescribe a certificate from ^{Q 1} the retired employee that none of his sons is working in the Railways. The applicant's father in his application Annexure-2 has given a separate declaration stating that he has no son or daughter working in the railways. Respondents, however, have produced the service particulars of one Shri Kedar Nath Panda working as Substitute Token Porter at the time of appointment in 1974. It is seen that railways have only made an inference that ^{Q 1} ^{the} said Kedar Nath Panda is the son of the applicant's father because the name of the father of Kedar Nath Panda also happens to be Shri Jaganath Panda. Respondents also said that ^{Q 1} ^{stated} the village of ^{Q 1} ^{the} said Kedar Nath Panda is also the same ~~Village~~ as that of the applicant's father. This is, in my view, ^{Q 1} not adequate to show that Kedar Nath Panda is the son of the applicant's father, particularly when the name of Jaganath Panda is a common name in that area. That apart applicant has categorically stated in a rejoinder that the said Kedar Nath Panda is ^{Q 1} ⁱⁿ ^{now} related to her nor is he the brother of the petitioner nor the son of the applicant's father. This statement ^{Q 1} ~~together~~ with the declaration given by the applicant's father in the application are enough to reject this ground advanced by the Respondents.

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5. The third ground relates to the allegation of the applicant that another person whose father had retired in 1983 have been provided employment assistance. The respondents in their counter-affidavit state that "Ganesh Lal having attained 53-58^{1/2} years of age on 1.7.1983, the application of her daughter was in order and could be considered as there was no impediment in that regard. Ganesh Lal also fulfilled the conditions stipulated circular Annexure-3."

It must be noticed that Annexure-3 calls for applications from retired employees not from persons who are to retire after a period of some years. No one in Annexure-3 is it mentioned that persons who are to retire prospectively may also apply in terms of that circular. It is, therefore, clear that Ganesh Lal, who retired in 1983 could not have applied in response to the Circular Annexure-3 and that to before 4.10.1981 on which date he was verymuch in service. The statement of the respondents that Ganesh Lal fulfilled the conditions in the circular Annexure-3 therefore, not acceptable.

6. I, therefore, consider that the applicant is justified in expecting the respondents to act in response to the application of her father Annexure-2/Annexure-24. Since it is entirely due to the fault of the respondents that applications Annexure-2/Annexure-24 have not been acted upon on an untenable ground that it was not received by them before a cut off date which itself is unreasonable,

I have also to hold that respondents should consider the case of the applicant relaxing the question of age in her favour since at the time of the application in 1981, applicant was well within the eligible age for employment assistance, and ~~that~~ ^{if} to-day applicant is overaged is entirely due to the fault of the railways. It must also be noticed that the applicant is physically handicapped which also entitles her to a sympathetic consideration.

7. In the light of the above observations, I direct the 1st Respondent, viz. General Manager, South Eastern Railways, Garden Reach, Calcutta, to examine the case of the applicant afresh without treating it as ^{belated} outside the limit of 4.10.1981 and without treating the applicant as overaged. In order to enable him, the applicant ^{may} forward a set of representations with her bio-data within one month from the date of receipt of a copy of this order. The 1st respondent shall consider the representation as sympathetically as possible and pass appropriate orders within three months from the date of receipt of such representation made by the petitioner. The order passed by the 1st respondent shall be communicated to the applicant immediately thereafter.

8. With these observations and directions the application is disposed of. No costs.

P. Venkatakrishnan
(P.V. VENKATKRISHNAN)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//