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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

OA No. 680 of 2005
Cuttack, this the 27th day of November, 2008

Ms.B.Gunbati Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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


(A.K. GAUR)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

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CUTTACK BENCH: CUTTACK

O.A.No.680 of 2005

Cuttack, this the ~~27th~~ day of November, 2008

C O R A M:

THE HON'BLE MR.A.K.GAUR, MEMBER (J)
A N D

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Ms.B.Gunbati, Aged about 29 years, Daughter of late B.S.Narayana at present residing at Rekhana Sahi, PO/PS.Paralakhemundi, Dist. Gajpati, Orissa.

.....Applicant

Legal practitioner : Mr.V.Narasingh, Counsel.
- Versus -

1. Union of India through General Manager, South Eastern Railway, Garden Reach, Calcutta-32.
2. Senior Divisional Personnel Officer, S.E.Railway, At/Po.Chakradharpur, West Bengal.
3. Area Manager, S.E.Railway, Bondamunda, At/Po.Bondamunda, Dit.Sundargarh, Orissa.

....Respondents

Legal Practitioner :Mr. T.Rath, Counsel.

O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

It reveals from record, that the father of Applicant Late B.S.Narayana while working in the Railway as Deputy CHC died prematurely on 06.02.1985. His daughter namely Ms.B. Gunabati/present Applicant sought employment assistance on compassionate ground. The said request of applicant was rejected by the Respondents under Annexure-A/10 dated 01.07.2004. Challenging the said order of rejection under Annexure-A/10 dated 01.07.2004 she has filed this OA with the following relief:

- “(a) Declare the order rejecting the applicant's claim for appointment on compassionate

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- grounds dated 1.07.2004 at Annexure-A/10 as illegal and quash the same;
- (b) Direct the respondents to consider and appoint the applicant forthwith on compassionate grounds;
 - (c) Issue any other order/direction which would afford complete relief to the applicant, in the facts of the present case."

2. Respondents have filed their counter supporting the grounds taken in the order of rejection and objecting the prayer of the applicant. Applicant by filing rejoinder reiterated her stand of getting employment on compassionate ground.

3. After having heard the rival contentions of the parties, perused the materials placed on record.

4. Father of the Applicant expired leaving behind two married daughters, the present Applicant and her mother/widow of deceased. It is seen that at the time of death of the father, the Applicant was aged about 10 years, her date of birth being '21.03.1975'. The mother of the Applicant was allowed to receive all retirement dues of the deceased and practically the family of the deceased was consisting of two members. If there was really need of immediate employment on compassionate ground to over come the indigent condition, soon after the date of death of the railway servant, his widow could have applied for employment for herself being the first claimant for such employment. However, if for any reason, she did not do so, and the request for employment in favour of the applicant was not considered favourably, instead of sleeping over the matter for such a long time, she could have availed other recourse known to law. But she kept quiet over the matter and approached this Tribunal only in

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the year 2005 when her case was rejected by the Respondents on the ground of being belated one. This itself shows that there has been really no indigence suffered by the family. At the time of filing this OA, the applicant has also crossed the upper age limit of getting the employment in the Railway. She has produced no material showing that the family is still in indigent condition. By now 23 years have elapsed from the date of the death of the employee and the family has been able to sustain itself all along.

5. It is trite law that there should be no departure from the general rule of appointment to public employment except under compelling circumstances such as death of the sole bread earner and the livelihood of the family suffering as a consequence. Once it is proved that in spite of the death of the bread earner, the family (has) survived and a substantial period is over, there is no necessity to say goodbye to the normal rule of appointment and to show favour to one at the cost of several others, ignoring the mandate of Article 14. The Tribunal should not confer benediction impelled by sympathetic consideration to make appointments on compassionate grounds when the regulations did not cover and contemplate such appointment. The appointment on compassionate ground cannot be a source of recruitment. The object is to enable the family to get over the sudden financial crisis. Such appointments have, therefore, to be made in accordance with rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased. In the present case the death of the father of applicant

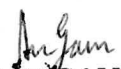
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occurred on 06.02.1985 whereas the Applicant has approached this Tribunal after passage of 20 years i.e. on 22.08.2005 that too when she was aged about 30 years.

6. In the case of **Indian Drugs and Pharmaceutical Ltd v. Devki Devi**, 2007 (1) AISLJ 224, the Apex Court held that the compassionate appointment is not a right. In the case of **State of J&K v Sajid Ahmed Mir**, 2007 (1) AISLJ 219 the Apex Court observed that when the family could survive in spite of the death of the employee at a belated stage the family should not get employment on compassionate ground. In the case of **National Institute of Technology and another v Miroj K. Singh** (2007 1 SCC (L&S) 668 by the time the employee died the son was a baby, still the Hon'ble Supreme Court held that compassionate appointment cannot be granted to the son after getting majority more than 15 years after the death of the employee.

7. In view of the above, we find no ground to interfere in the decision taken by the Respondents and communicated to the Applicant under Annexure-A/10 dated 01.07.2004. Hence, this OA stands dismissed. No costs.


(A.K. GAUR)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)