

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

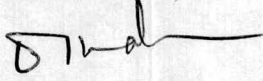
Original Application No.880 of 2005
Cuttack, this the 04th day of January, 2008

Smt.Kalla Tarinamma ... Applicant
Versus
Union of India & Others ... Respondents

FOR INSTRUCTIONS

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


(C.R.MOHAPATRA)
MEMBER(A)


(DR.D.K.SAHU)
MEMBER(J)

18

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.880 of 2005
Cuttack, this the ~~04th~~ day of January, 2008

C O R A M:

THE HON'BLE DR.D.K.SAHU, MEMBER (J)
AND
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Smt.Kalla Tarinamma, W/o.Late Appanna, aged about 54 years,
Household duties, Aravasariapalli, Vill. Matam Sariapallil, Po.
Srikakulam, Dist. A.P.

..... Applicant.

By legal practitioner: M/s. B.P.Yadav, Advocates.

-Versus-

1. Union of India represented through its General Manager, East Coast Railway, Chandrasekharapur, Bhubaneswar (Orissa).
2. The Divisional Railway Manager (P), East Coast Railway, Khurda Road Division, Po. Jatni, Khurda, Dist. Orissa.
3. The Permanent Way Inspector, East Coast Railway, Gorknath, Paradeep, Orissa.
4. The General Manager, South Eastern Railway, Garden Reach, Kolkatta, West Bengal.

... Respondents.

By legal practitioner: Ms.S.L.Patnaik, Advocate

Dr. D. K. Sahu

19

ORDER

DR.D.K.SAHU, MEMBER(J):

The Applicant is the widow of Late Appanna who died on 30.04.1988 while serving as Gangman under Respondents-Railways administration (PWI, Gorakhnath). It is submitted that the husband of the applicant died in harness, so representations were submitted seeking employment on compassionate ground in favour of the adopted son Kalla Bhimaiah. That having not been allowed she has filed this Original Application for grant of such an appointment in favour of said Kalla Bhimaiah.

2. Respondents in their counter submitted that on 15.07.1988, the Applicant submitted a representation for compassionate appointment under Annexure-R/1 wherein she sought for employment assistance in favour of her brother. In the legal heir certificate submitted under Annexure-R/3 dated 28.06.1988 it has been stated by the concerned authority that the applicant was the sole legal heir of the deceased railway employee Late Appanna who had no child. It is further submitted that such an application at this belated stage is not maintainable.

D.K.S.

3. During course of hearing reference has been made by the learned counsel for the applicant to Annexure-A/4 – a copy of the order of the Court of the Junior Civil Judge, Sompeta wherein Kalla Bhimaiah the plaintiff No.2 therein has been declared as the adopted son of Kalla Tarinamma (Applicant) and her husband. However, that suit was presented on 28.9.1999 and the said order was passed on 16.06.2000. A perusal of Annexure-A/1 reveals that the first representation for employment on compassionate ground in favour of K.Bhimayya has been made only on 30.04.1994 i.e. about six years after the death of the employee. Initially the applicant made a representation to give compassionate appointment in favour of her brother. Legal heir certificate reveals that there was no child of the deceased employee/Applicant.

4. Despite the factual aspects, the scheme of appointment on compassionate ground is applicable if an employee dies in harness leaving his family in penury and without any means of livelihood. The object ^{is} ~~is~~ thus, to enable the family of the deceased employee to tide over ^{the} sudden financial crisis resulting due to death of the bread earner. In the instant case the employee died on 30.04.1988. The first representation

Encl

21

to grant employment in favour of adopted son was made only in the year 1994 which was turned down under Annexure-A/1 dated 5.6.1996. Subsequently her representation was rejected under Annexure-A/2 dated 18.12.1998. The Civil Court decree was obtained in the year 2000 whereas the present application has been filed only on 02.11.2005. Now it is January, 2008.

5. These facts abundantly indicate that the family could survive for decades together without any financial assistance by way of compassionate appointment to any member of the family.

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

BT

-4-

23

compassionate appointment cannot be granted to the son after getting majority more than 15 years after the death of the employee.

7. In the instant case the employee died about twenty years before. At this stage grant of appointment on compassionate ground would be a negation of the scheme. The claim of applicant does not contain any merit. Hence, this OA, being devoid of any merit, is dismissed. No costs.


(C.R. MOHAPATRA)
MEMBER(A)


(DR.D.K.SAHU)
MEMBER(J)

KNM/PS