

6

O.A. No.357 of 2007
M.Kamamma & Another ... Applicant
Versus
UOI & Ors. ... Respondents

Order dated 15th October, 2009.

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

.....
Applicant No.1 (M.Kamamma) and Applicant No.2 (M.Mohana Rao) are the wife and son of Late M.Rama Rao, Ex Bearer of Refreshment Room S.E.Railway (Now E.Co.Railway) who died prematurely on 18.11.1988 while working in the Railway. The grievance of Applicants for appointment on compassionate ground having been rejected and communicated under Annexure-A/5 dated 12.03.2007, they have approached this Tribunal in the present Original Application seeking to quash the impugned order under Annexure-A/5 with direction to the Respondents to reconsider and provide appointment on compassionate ground in favour of Applicant No.2. The grounds of rejection, as provided under Annexure-A/5 read as under:

"The above employment assistance case has been examined in detail by the competent authority and it has been found that the impersonation taken place by affixing the photograph of another person i.e. your own brother with your connivance. It does not have any merit to consider for employment to your son Sri M.Mohan Rao."

2. This was also the stand taken by the Respondents in their counter filed in this case. But it is the stand of the Applicant both in the rejoinder filed in this case as also in course of hearing that when employment was sought for the son of the applicant it is beyond imagination that one can affix the

L

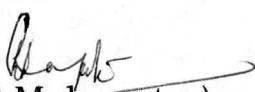
X

photograph of another. It occurred due to the reason that as the family was in destitution and illiterate they took the help of the brother of Applicant No.1 namely M.punnayya for making application for appointment. But while doing so, he had impersonated by putting his signature and photograph in the application to get the employment in place of Applicant No.2 without the knowledge of the Applicants. This fact having come to the knowledge of the Applicants, by making representation dated 26.10.2004 they have also clarified their ignorance about the occurrence and requested for reconsideration of the case of the Applicant No.2 by making thorough enquiry/investigation whether the Applicant No.2 is the son of the deceased Railway employee. So far as delay is concerned, by citing the Railway Board instruction it has been contended by the Learned Counsel for the Applicant that delay cannot be fatal especially in so far as Railway is concerned. For providing employment on compassionate ground power has been vested with the authorities to condone such delay. Similarly, relying on the order No.ECoR/Pers/R/Comp.Apptt/Policy/47 dated 28.06.2004 it was contended by the Learned Counsel for the Applicant that financial condition is not the criteria for providing employment on compassionate ground in the Railway for considering the cases of providing employment on compassionate ground as in case of other Central Government employees' son and daughter in the event of death. Learned Counsel appearing for the Respondents opposed the contention of the applicant by stating that as Applicants betrayed the

L

Railway by placing photograph of another, Applicant No.2 is not a deserving person to be appointed.

3. I find that the submission of the Learned Counsel for the Applicant is genuine; because when Applicant No.2 sought appointment on compassionate ground for himself it is incomprehensible that he would affix the photograph of another. It is likely that the same might have been transplanted by the brother of Applicant No.1 as has been stated in her representation as also in this OA. This aspect of the matter has not been considered by the Respondents as it reveals from the statement made in the counter. In this view of the matter, the impugned order under Annexure/5 dated 12.03.2007 is hereby quashed and the matter is remitted back to the Respondent No.2 to reconsider the case of the Applicant in the light of the aforesaid observation and pass a reasoned order within a period of 90 days from the date of receipt of this order. In the result, with the observations and directions made above, this OA stands disposed of. No costs.


(C.R. Mohapatra)
Member(Admn.)