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O.A.NO.339 of 2008

M.Santhamma and another	Applicants
Vrs		
Union of India and others	Respondents
<u>Order dated 07th December 2009</u>		

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

AND

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

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Heard Shri A.Das, the learned counsel for the applicant and Shri S.K.Ojha, learned Standing Counsel (Railways) for the Respondents.

2. Applicant no.1 is the widow and applicant no.2 is the son of late Appanna, who while working as Head Trackman under P.W.I./SPT of East Coast Railway, passed away on 17.8.2002. In this O.A. they have prayed for the following relief:

- (i) To quash the order of rejection dated 27.04.2005 (AnnexureA/1) and the letter dated 20.12.2007 enclosed to letter under Annexure A/7;
- (ii) To direct the Respondents to provide employment assistance to applicant No.2 forthwith;
- (iii) To pass any other order/orders as deemed fit and proper in the circumstances of the case;"

3. It is the case of the applicants that soon after the death of the Railway employee, applicant No.1 requested one of the co-workers as well as friends of her husband to obtain the educational certificate from the school where her last son was reading, in order to secure appointment on compassionate ground and having obtained so, she made an application dated 7.9.2003 to the Railway



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authorities for compassionate appointment in favour of applicant no.2. While the matter stood thus, Respondent-Railways as per Annexure A/1 order dated 27.4.2005 rejected the prayer of the applicant on the following grounds:

“With reference to your above application, it is to inform you that the employment assistance case in favour of your son has been examined. It is seen that you have tried to befool the railway Administration by submitting the false/forged T.C. in support of Educational qualification of your son. As such the case for granting employment assistance to your son on compassionate grounds is regretted.”

It is stated by the applicants that in the meantime, applicant no.2 having passed Class IX (Annexure A/2) submitted an application dated 4.7.2005(Annexure A/3) to the Divisional Railway Manager, East Coast Railway, Khurda Road, for providing employment assistance in favour of applicant No.2. When no decision was communicated by the Respondent-Railways, the applicant made further representations, the last representation being dated 24.4.2007 (AnnexureA/5). Since the applicants could receive no response on these representations, applicant No.1 sought information through R.T.I.Act regarding the status of her representation. As per enclosure to Annexure A/7, dated 24.12.2007, the applicant was communicated with the following information through R.T.I.Act:

“After the death of the ex-employee on 17.08.02 the applicant applied for employment assistance on compassionate ground in favour of her third son M.Dharma Rao. In support of date of birth and educational qualification of the candidate, a certificate said to have been issued by Head Master Zillaparishad



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High School Mamidipalli, Srikakulam Dist. A.P. vide No.066417 dt.20.06.87 was produced. The same was verified with the Head Master of the School who informed that the certificate is not genuine. Accordingly, the applicant was informed vide this office letter No. P/KUR/Rectt/EA/Comp.Appt./1456 dt.27/04/05 that the case for granting employment assistance in favour of her son on compassionate ground is regretted as she tried to befool the Railway Administration by submitting a false/forged School Certificate in favour of her son.

There is no question of any further verification, when the concerned Headmaster has already confirmed that the certificate is not genuine."

Hence this O.A. has been filed by the applicants with the prayers referred to above.

4. This matter came up for admission on 5.9.2008 when on the prayer made by the applicants' counsel that he would file petition for condonation of delay, the matter was directed to be put up after the said petition was filed. As revealed from the record, after one year therefrom the applicants having filed petition for condonation of delay as well as petition for joint prosecution of this O.A., the matter was put up on 16.11.2009 for admission.

5. We have considered the submissions made by the learned counsel for the applicant and perused the materials on record.

6. It has been submitted that soon after the death of the railway employee, his widow (applicant No.1) requested one of the co-worker of her husband as well as family friend to obtain the educational certificate from the school where her last son was reading. From the information submitted by the



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Railway Administration through R.T.I.Act, the certificate produced by the applicant was dated 20.6.1987 whereas the railway employee had passed away on 17.8.2002. Therefore, by no stretch of imagination it could be said that the certificate was obtained soon after the death of the railway employee, as submitted by the applicants. Admittedly, as per Annexure A/1 dated 27.4.2005, the prayer of the applicants for compassionate appointment had been rejected by the Railway authorities on the ground that applicant No.1 wanted to befool the Railway administration by producing a false/forged certificate. The applicants in the present O.A. have not produced copy of that certificate which he had produced before the authorities. Instead they have pleaded ignorance about which of the certificates had been considered and found forged by the Railway authorities. From the above conduct and attitude, we cannot but observe that the applicants had indeed submitted a false/forged certificate for the purpose of securing compassionate appointment and therefore, it was incumbent on the part of the Railway Administration to have rejected the prayer of the applicants. The production of false/forged certificate is more fortified by the fact that the applicants never protested against such findings of the Railway Authorities, while rejecting the prayer for compassionate appointment at Annexure-A/1.

7. The next point to be considered is that the prayer for compassionate appointment was rejected as per Annexure A/1 order dated 27.4.2005 and under the relevant A.T.Act and Rules, they should have



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approached the Tribunal within one year from 27.4.2005. In the petition for condonation of delay they have not stated as to what prevented them from approaching this Tribunal within the period of limitation and the Tribunal is not satisfied with whatever grounds urged that there was sufficient cause for the applicants for not approaching the Tribunal in time. Therefore, the delay in approaching this Tribunal is attributable to the applicants.

Further, it reveals from the record that the first attempt of the applicants for securing appointing on compassionate grounds having failed, they initiated the second attempt by producing another certificate (AnnexureA/2) showing the applicant No.2 to have passed Class IX. The Respondents having remained silent and ultimately the applicants having received Annexure A/7 order dated 20.12.2007 moved this tribunal by impugning Annexure A/7 as well as AnnexureA/1 dated 27.4.2005. In this context we express our utter dismay as to how the applicants could obtain certificate after certificate as per the their whims and fancies for the purpose of securing employment and accordingly, we hold that the applicants have not approached this Tribunal with clean hands.

8. In this case, the Railway employee passed away in the year 2002 and the applicants have been able to manage themselves since more than seven years without any employment assistance and therefore, it cannot be construed that the family is indigent.



9. For the reasons discussed above, we hold that the O.A. is not only hit by delay and laches but also lacks in merit. Accordingly, the O.A. is rejected.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER