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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.No. 423 of 2010
Cuttack, this the 23rd day of August, 2010

Smt.S. Appamma & Anr. Applicants
-Versus-
Union of India & Others Respondents

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

It is the admitted case of the Applicants that at the time of death of the husband (Late S.Simhadri) of the Applicant No.1, Applicant No.2 was a minor. Soon after attaining majority, by submitting representation dated 8-4-2000 & 3.7.2001, Applicant No.1, sought compassionate appointment in favour of Applicant No.2. Also it is the case of the Applicants that on 10.2.2003, Respondent No.4 turned down the said request for appointment on compassionate ground in favour of Applicant No.2 on the ground of submission of fake educational certificate. Thereafter the Applicant No.2 continued his study and passed out in IX examination in April, 2005. Thereafter through representations they reiterated their prayer for providing appointment on compassionate appointment on the basis of the IX class pass certificate obtained by Applicant No.2 in the year 2005. Alleging non-consideration of their case till date, they have approached this Tribunal in the present Original Application filed under section 19 of the A.T. Act, 1985 seeking direction to the Respondent Nos.2&3 to complete the entire exercise by taking note of Anexure-A/6 & A/7 and provide appointment in favour of Applicant No.2 commensurate with his educational qualification within a stipulated period.

2. Heard Mr.R.K.Samantsinghar, Learned Counsel appearing for the Applicants and Mr.S.K.Ojha, Learned Standing Counsel for the Railway

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appearing on notice for the Respondents and perused the material placed on record.

3. Mr. Ojha, Learned Standing Counsel for the Respondents, on instruction of the Department, vehemently opposed the contention of the Applicants and submitted that subsequent certificate obtained and submitted by the applicants for appointment cannot cure the attempt to defraud the Railway by submitting false/fake educational certificate. Since the applicants did not come with clean hands and their grievance was rejected for seeking appointment by producing false certificate in the year 2003 and said order of rejection having not been challenged, besides on merit this OA is liable to be dismissed by application of section 21 of the A.T. Act, 1985 on the ground of limitation.

4. It is now a well settled principle that fraud vitiates all solemn acts. It is also trite law that a person invoking the discretionary jurisdiction cannot be allowed to approach with a pair of dirty hands. Even if the said dirt is removed and the hands become clean, relief can still be denied. Equally law is well settled that appointment on compassionate ground cannot be claimed as a matter of right nor can it be said that it is an alternative source of appointment. Compassionate appointment is a concession, not a right. Employer has every right to refuse appointment to dependent of a deceased employee who had not come in clean hand. Seeking appointment by producing false/fake certificate is a serious offence which certainly cannot be cured by producing the certificate later on obtained after long lapse of time. This position is no more *res integra* and has been well settled in a plethora of judicial pronouncement of various Courts. Equity helps to those who have come in clean hands but certainly not the Applicants in the present case. In view of the above, direction to consider the case of the applicant would

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tantamount to depriving a genuine candidate waiting for consideration. Besides merit, this OA also fails on the ground of limitation as his request was rejected on 10.2.2003 whereas they have approached this Tribunal in 2010 that too without impugning and justifying in this OA as to how such order of rejection is not sustainable.

5. For the reasons stated above, I do not see any justifiable ground to even admit this OA. Hence this OA stands dismissed being devoid of merit as also on the law of limitation at this admission stage. There shall be no order as to costs.


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