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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A.NO.234 OF 2011

Cuttack this the 06th day of November, 2012

CORAM:

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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1. Sukanti Singh, aged about 52 years, W/o. late Baidhar Singh
2. Jogendra Singh, aged about 20 years, S/o. late Baidhar Singh
All residents of Vill/PO-ajodhya, PS/Tahasil-Nilgiri, Dist-Balasore

...Applicants

By the Advocates: M/s.A.K.Hota & D.P.Das

-Versus-

1. Union of India represented through General Manager, East Coast Railways, Rail Vihar, At/PO-Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Divisional Railway Manager (Mech.), East Coast Railways, Khurda Road, At/PO-Khurda Road, Jatni, Dist-Khurda.
3. Divisional Railway Manager (Personnel), East Coast Railways, Khurda Road, At/PO-Khurda Road, Jatni, Dist-Khurda.

...Respondents

By the Advocates:Mr.R.S.Behera, ASC

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O R D E R

A.K.PATNAIK, MEMBER (J):

Applicants are the widow and son of deceased Railway employee. Being aggrieved by the order under Annexure-A/7 dated 23.02.2011 (in which their prayer for appointment on compassionate ground was rejected), they have approached this Tribunal in the instant OA with prayer to quash the order at Annexure-A/7 dated 23.2.2011 and to provide appointment on compassionate ground in favour of the Applicant No.2. The letter under Annexure-A/7 reads a under:

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"Sub: Employment Assistance on compassionate ground to Sri Jogendra Singh, S/o. late Baidhar Singh, Ex.FM-II under LF/KUR.

In connection with your case for granting of employment assistance on compassionate ground, it is to inform you that your case was put up before the competent authority and the following order have been passed thereon.

The Order of CAT/CTC were specific for grant of pensionary benefits only. Normally, the administration is considering cases for employment assistance where the record of the deceased Railway employee has been clear & good, as also loyal to the Rly. administration. In the present case, the concerned, Rly. Employee (Baidher Singh) was long unauthorized absent from duty for which disciplinary action was taken against him. However, CAT/CTC found some technical procedural flaws in the process of disciplinary action taken against him and hence, the same was quashed. But, that does not absolve the employee of the charge of indiscipline and unauthorized absence from duty. Hence, employment assistance cannot be granted to wards of an employee who was not loyal to the Railway administration and become liable for disciplinary action due to his long unauthorized absence from duty. Hence, the request of Sri Jogendra Singh for employment assistance is regretted".

2. Respondents filed their counter objecting to the prayer made in this OA to which Applicant has filed rejoinder, more or less reiterating the stand taken in the OA.

3. It has been contended by Mr.A.K.Hota, Learned Counsel for the Applicants that the Respondents rejected the claim of the applicants in a routine manner, without due application of mind to the facts of the matter; as there was no disciplinary proceedings initiated/pending against the deceased employee nor there was adjudication of the prayer of the applicants for providing employment

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on compassionate ground. Hence it was contended by Mr. Hota, Learned Counsel for the Applicants that since the rejection is bereft of record the applicants are entitled to the relief claim in this OA. By reiterating the stand taken in the order of rejection at Annexure-A/7 so also in the counter, Mr.R.S.Bhera, Respondents' Counsel objected to the arguments advanced by Learned Counsel for the Applicants and has submitted that this OA being devoid of any merit is liable to be dismissed.

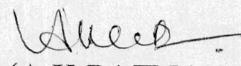
4. I have considered the rival submissions advanced by the respective parties and perused the pleadings and documents relied on in support thereof. It reveals from the record that the husband/father of the Applicants died in harness on 08.09.1995. Thereafter, the widow, Applicant No.1, submitted an application seeking compassionate appointment in favour of her son, Applicant No.2. In letter under Annexure-A/3 dated 16th/19th January, 1996, the Senior Divisional Mechanical Engineer, ECoR,KUR, forwarded the application of the Applicant No.1 to the Senior DPO/KUR. In pursuance of the aforesaid communication, in letter under Annexure-A/6 dated 29.10.2010, the Applicant No.2 was called upon to be present along with all necessary documents in the O/O the Divisional Railway Manager (P)/KUR. Accordingly, applicant No.2 complied with the said direction. No record has been produced in support of the stand taken in the order of rejection nor the Respondents substantiate

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by placing on record any evidence that in such a situation compassionate appointment is not permissible. Rather the order dated 9.4.2002 in OA No. 153/2000 fortifies that miscarriage of justice was caused to the Applicants in the decision making process of rejecting their claim for employment assistance on flimsy grounds. Hence the rejection of the grievance of the applicant on the ground that the record of the deceased Railway employee was neither clear and good nor was he loyal to the Railways as disciplinary proceedings had been initiated against him due ^{to} ~~long~~ unauthorized absence, being not based on any documentary evidence and Rules is not sustainable in the eyes of law. Accordingly, the order of rejection under Annexure-A/7 is hereby quashed and the Respondent-Railways are directed to reconsider the case of Applicant No.2 for employment assistance on compassionate ground as per Rules and communicate the result thereof in a well reasoned order at an early date preferably within a period of 60(sixty) days from the date of receipt of copy of this order.

5. In the result, the O.A. stands allowed to the extent indicated above. No costs.


(A.K.PATNAIK)
JUDICIAL MEMBER