

18

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.256 of 2011

Cuttack this the **18th** day of July, 2014

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

B.Chandrasekhar Reddy,
Aged about 30 years
Son of late B.Dasarath Reddy
At/PO-Chandbali
Dist-Bhadrak

...Applicant

By the Advocate(s)-M/s.S.Panda

K.K.Sahoo

R.N.Nayak

R.K.Rana

-VERSUS-

Union of India represented through

1. The General Manager
South Eastern Railway,
H.Garden Reach Road
Kolkata-700 043
2. The Divisional Railway Manager
South Eastern Railway
Kharagpur,
Dist-Medinapur, W.B.
3. The Chief Personnel Officer
South Eastern Railway
Garden Reach
Kolkata-700 043, W.B.
4. Sr.Section Engineer (P.Way), Kharagpur
South Eastern Railway,
Kharagpur, Dist-Medinapore, W.B.
5. Chief Vigilance Officer
South Eastern Railway
Vigilance Branch
Garden Reach
Kolkata-700 043



- 19
6. K.Lokanath Reddy
C/o.K.Sameswar Reddy
Qr.No.1/05/71, Unit-10
Old Settlement
New Dhanisingh Maidan
Kharagpur
Dist-edinapore (WB)

...Respondents

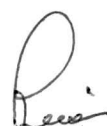
By the Advocate(s)-Mr.S.K.Ojha

ORDER

R.C.MISRA, MEMBER(A):

Applicant in the present Original Application has approached this Tribunal for direction to be issued to Respondent No.2 to provide him compassionate appointment by quashing the letter dated 18.8.2010(Annexure-A/7) wherein his prayer for compassionate appointment has been rejected.

2. Without going into the details of this matter, it is adequate to mention that while working as Senior Khalasi under Respondent No.4, applicant's father died on 18.12.1989. Applicant was a minor at the time of death of his father. One Loknath Reddy, who is Respondent No.6 in this O.A. allegedly tampered with the signature and thumb impression of the mother of the applicant and fraudulently managed to get compassionate appointment in his favour on the basis of application dated 5.5.1994 of the mother of the applicant. In the year, 19⁹8, the mother of the applicant complained before the Vigilance Organization of the Railways that the Respondent No.6 impersonated himself as the son of the deceased and got appointment on compassionate ground. Basing upon this complaint, an enquiry was conducted by the Vigilance



20

Department and a major penalty charge sheet was issued against the above mentioned Lokanath Reddy. Finally, the departmental proceedings resulted in the imposition of punishment of removal from service. Even though this order was challenged by the Respondent No.6 before this Tribunal as well as the Hon'ble High Court, finally by the order of the Appellate Authority dated 26.7.2010, the order of punishment has been confirmed.

3. Facts relevant to the present case are that the applicant had moved the Tribunal by filing O.A.No.762 of 2005 seeking direction for compassionate appointment and the Tribunal was pleased to dispose of this O.A. vide order dated 11.12.2007 directing Respondents to consider the request of the applicant and pass a reasoned order. Thereafter, the competent authority passed a speaking order on 3.6.2008 in compliance with the orders of the Tribunal. In this order, it was mentioned that one B.Chandrasekhar Rao whose real name is K.Lokanath Reddy was given compassionate appointment as junior Gangman on 4.3.1995 based upon the affidavit and documents submitted by Smt.B.Laxmi, mother of the applicant. Subsequently, following her complaint, a vigilance case was started and K.Loknath Reddy was removed from service. It is alleged that the mother of the applicant gave false information to secure job for K.Lokanath Reddy and that way the claim of the applicant for compassionate appointment is exhausted.

4. This order dated 3.6.2008 was challenged by the applicant before this Tribunal by filing O.A.No.399/08. The Tribunal, vide order dated



21

2.2.2010 directed that matter to be considered afresh by the Railways since K.Loknath Reddy got appointment by impersonating himself to be the son of the deceased employee and for this fraud, his services have been terminated. Applicant was directed to make a fresh application for compassionate appointment to facilitate the fresh consideration by the Railway authorities. In compliance of the direction of this Tribunal, the impugned order dated 18.8.2010 at Annexure-A/7 has been issued by the Respondents.

5. When the matter was listed for hearing on 9.4.2014, no one had appeared for the applicant. Earlier to that also on 14.3.2014 and 25.2.2014, none had appeared for the applicant. On 7.5.2014, also when the matter was posted under hart-heard, no one appeared for the applicant. Subsequently, when the matter was taken up on 3.7.2014, again the applicant absented himself from appearing. As a result, I heard Shri S.K.Ojha, learned Panel Counsel for the Railways and upon perusal of records, hearing was concluded. Shri Ojha has filed written note of submission subsequent to hearing of this matter.

6. The short point for consideration in this case is whether the applicant's prayer for compassionate appointment warrants a fresh consideration by the Railway authorities. No doubt the facts of this matter are complicated and someone who allegedly impersonated himself as the son of the deceased and fraudulently procured compassionate appointment has already been thrown out of service on conclusion of a departmental proceedings initiated against him. It is



22

alleged by the departmental authorities that on the charge of impersonation, the role of the mother of the applicant who submitted the application on 23.6.1994 cannot be ruled out. However, after some misunderstanding the complaint was made by the mother of the applicant to the Railway authorities and the matter of fraud and impersonation was detected. The applicant has already approached this Tribunal twice before. In the first O.A., i.e., O..A.No.762 of 2005 when the Tribunal passed orders for consideration of the case of the applicant and accordingly, the Respondents complied with this order by stating that the mother of the applicant had given false information to secure the job for one Lokanath Reddy and by that process her claim for compassionate appointment has been exhausted. Again in the 2nd round of litigation in O.A.No.399 of 2008, the Tribunal directed the matter to be considered afresh if the applicant would make a fresh application to the authorities. In compliance of that order, the applicant submitted a fresh application on 4.2.2010 along with the documents and this has also been considered afresh by the issuance of an order dated 18.8.2010, which has been challenged in the present O.A.

7. The ground taken by the Respondents in support of rejection of the claim of the applicant for compassionate appointment is that compassionate appointment is not a matter of vested right and it is not granted after lapse of a reasonable period when the crisis period is over. The Respondents have cited the law laid down by the Hon'ble Apex

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23

Court in the case of Umesh Kumar Nagpal vs. State of Haryana during the course of passing of this speaking order.

8. I have considered the details of the matter as well as the arguments advanced by the learned counsel for the Respondents, who has raised the issue that after the passage of such a long period, the prayer for compassionate appointment cannot be considered. The learned counsel for the Respondents has strenuously pleaded that the mother of the applicant had become a party to the impersonation by making application in the year 1994 and without raising any objection to the said appointment of Lokanath Reddy for more than five years.

9. The circumstances of this case are definitely peculiar. However, the Tribunal in O.A.No.399 of 2008 in their order dated 2.2.2010 had given a direction for fresh consideration on a fresh application being made. In compliance of this order, the Respondents examined the matter but rejected the claim of the applicant for compassionate appointment. This is a case where the Railway employee had passed away on 18.12.1989 and by any stretch of imagination a long time has passed since the date of the death of the applicant's father. The scheme of compassionate appointment is intended to tide over the sudden crisis occasioned on account of untimely passing away of the breadwinner. The scheme of compassionate appointment cannot be taken as an alternative method of employment in violation of Articles 14 and 16 of the Constitution in the matter of public employment. It is a scheme which is intended for a specific purpose and after a passage of long



84

period of time, the intention of the scheme gets defeated if the employment assistance is not offered to a dependant family member having regard to the immediate distress condition of the family which had arisen after the death of the employee. This is the position of law which has been repeatedly stressed by the Hon'ble Apex Court in various judgments. In this case, the observation of the Hon'ble Apex Court in Local Administration Department & Anr. vs. M.Selvanayagam (AIR 2011 Supreme Court 1880) is as under:

"An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependants and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependants of the deceased employee would be directly in conflict with Articles 14 and 16 of the Constitution, and hence quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind".

10. It is a matter of great concern that the benefit of a scheme of compassionate appointment which has been launched with a noble purpose to alleviate indigent condition of the family was ^pbeing misused by Respondent No.6 by way of impersonation. It is also clear that the charges having been proved, he was thrown out of employment. However, I have no intention of making any comment on the alleged involvement of the mother of the applicant so far as charge of impersonation is concerned, because that is not the subject matter of consideration. When the matter is now presently considered, Respondents, however, have forcefully defended their position based

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25

upon the law laid down by the Hon'ble Apex Court on compassionate appointment. The applicant has not shown any diligence to appear before the Tribunal to put forth his case thereby foisting the decision on the Tribunal based upon the pleadings of the parties.

For the reasons discussed above, I do not find any justifiable reason to interfere with the order dated 18.08.2010(Annexure-7) and accordingly, the O.A. ^h ~~is~~ being without any merit is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)

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