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OA No.81 of 2009

S.Chandrasekhar Reddy & Anr.Applicants

Versus

Union of India & Others

..... Respondents

ORDER DATED: **29th March, 2010**

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

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Applicant No.2 sought employment in favour of Applicant No.1 (stating to be her son) on compassionate ground as her husband 'Late S.Satyam' died prematurely on 31.05.1984 while working as Gangman in the Railway leaving behind his widow, two unmarried daughters and one son (Applicant No.1) who was then a minor. The said request was rejected and the reason of rejection was communicated to her under Annexure-A/3 dated 02.11.2006. The said order of rejection under Annexure-A/3 dated 02.11.2006 is under challenge in this Original Application filed under section 19 of the A.T. Act, 1985 with prayer to quash the said order and to direct the Respondents to provide appointment to Applicant No.1 on compassionate ground. The reason of rejection spelt out in Annexure-A/3 dated 02.11.2006 reads as under:

“With reference to the above, it is to inform you that the case for employment assistance to your son has examined in detail. The competent authority has not agreed to your request in view of the fact that there is serious discrepancies in the name of the candidate in different documents submitted and the case is time barred as per the rules then existing.”

2. In the reply filed by the Respondents, it has been stated that one Shri S.Satyam son of Rajian while working as Gangman under the Permanent Way Inspector/Berhampur (PWI/BAM) expired on 31.5.84. As per the legal heir certificate and Court affidavit submitted by the widow, the ex railway employee left behind two unmarried daughters, one son and at the time of his death the daughters and son were all minor. After 16 years of the death of

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employee, the widow submitted a representation dated 10.05.2001 to the DRM/KUR seeking employment on compassionate ground in favour of her son without any supporting document. Hence, the widow was asked vide letter dated 5.8.02 (Annexure-R/1) to submit the relevant documents enabling the Railway to process the matter. No document having been received from the widow, again vide letter dated 14.2.2003 (Annexure-R/2) she was asked to attend the office of PWI/BAM on 26.2.2003 along with all documents. Meanwhile, the widow submitted documents on examination of which it was found that the name of the husband of the applicant No.2 was mentioned in the application dated 26.3.2003 as "**S.Satyam Reddy**" whereas in the death certificate dated 13.3.1997 of Railway employee it was mentioned as "**Suggu Satyam**". Similarly, the name of applicant No.1 although was recorded as '**S.Chandrasekhar Reddy**' in the application under Annexure-R/3 in the legal heir certificate dated 23.06.1984 produced by Applicant No. 2 it was recorded as '**Sugu Chandra Rao**' and that in the High School Certificate of the Applicant No.1, the father's name has been shown as "S.Chandrasekhar Reddy". This discrepancy having been noticed, vide letter under Annexure-R/7 dated 7.4.2003, the widow [Applicant No.2] was asked to remove the discrepancies so as to take further action in the matter. Thereafter through an affidavit it was brought to the notice of the Department by the Applicant No.2 that S.Chanda Sekhar Reddy son of Satyam Reddy and Chandra Rao son of Sugu Satyam of village Naulpeta, Chhhartapurdavit are one and the same. It was also clarified by her through the affidavit that discrepancies of name at different places occurred due to ignorance of the parents as also stating the correct date of birth of the applicant No.1. As the discrepancies still persist, through letter under Annexure-R/11 dated 05.12.2003 the widow was asked to clarify and in compliance of which through application dated 26.12.2003



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applicant No.2 submitted a certificate from the Tahasildar showing the family composition where in the applicant No.1's name was shown as son of S.Chandrasekhar Reddy @ Sugu Chandra Rao and also prayed for acceptance of Board's certificate as authentic for date of birth of her son. In the settlement memorandum O/O No.35/84 the name of the employee has been shown as Satyam Son of Rajiah. It has further been stated that after getting all the required documents from the Applicant No.2, the matter was enquired into by the Chief Welfare Inspector and thereafter the case of the applicants was put up before the competent authority for decision. But the competent authority rejected the case of applicant on the ground of discrepancies as pointed out as also on the ground of delay. It has, therefore, been contended by the Respondents that there being no miscarriage of justice caused in the decision making process of the matter, this OA is liable to be dismissed.

3. Heard Learned Counsel for both sides and perused the materials placed on record.

4. On the last occasion on 17.03.2010 Learned Counsel for the Applicants submitted that he reliably believed that the Chief Welfare Inspector in his report made the matter clear that the Applicant No.1 is the son of ex Railway employee but the Respondents without taking into consideration such report of the Chief Welfare Inspector, the Respondents rejected the claim of the Applicants. Even copies of such report were not annexed with the counter thereby depriving the applicants to know the same. Accordingly, on the insistence of Learned Counsel for the Applicants, the Learned Counsel appearing for the Respondents was directed to make such report available on the 25.03.2010 to which date the matter was posted for hearing. When the matter was listed on 25.03.2010 Learned Counsel appearing for the Respondents submitted that in spite of requests such report has not been made

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available to him by the Respondents. Hence he expressed his inability to produce the same.

5. Learned Counsel for the applicant submitted that justice should not only be done but be seen to be done is the essence of fairness equally applicable to administrative authorities. Hence, learned Counsel for the applicants insisted for drawing adverse inference for hiding such report by the Respondents. It was contended by Learned Counsel for the applicant that the applicant No.2 is illiterate. Applicant No.1 attained majority only on 29.05.2001. Thereafter the mother of applicant applied for appointment on compassionate ground in favour of her son/Applicant No.1. As such whatever delay occurred was not attributable to the applicants as they are pursuing the mater bona fide with the Respondents. However, it was contended that the applicants preferred appeal but the said appeal is still pending with the Respondents. By producing and relying on the Railway Board's instruction it was stated by the Learned Counsel for the Applicants that power has been vested with the authorities to condone the delay upto 20 years. But although delay is not attributable to the applicants, without sending the claim to the appropriate authorities, the DRM rejected the claim of the applicants. Accordingly, Learned Counsel for the Applicants prayed for grant of the relief as claimed in this OA. This was opposed by the Learned Counsel appearing for the Respondents strongly ~~opposed the case~~ by stating that the case of the applicants was considered by the competent authority/DRM with due application of mind and in view of the discrepancies and limitation, the DRM rejected the claim of the applicants which was duly intimated to them.

6. This Tribunal is not empowered to decide about one's progeny or guardianship nor has any jurisdiction to express any opinion on the discrepancies noted above. But it is the positive case of the Applicants that the

discrepancies or the truth of the matter can be brought to the light through the local enquiry to be caused by the Welfare Inspector but the Respondents rejected the case without taking into consideration of such report. As the Respondents failed to produce copies of such report, the order under Annexure-A/3 dated 2.11.2006 is hereby quashed and the matter is remanded back to the Respondents with direction to reconsider the case of the applicants by taking into consideration the report of the Chief Welfare Inspector, as referred to in paragraph 10 of the counter of the Respondents as also the instructions under RBE No. 121/1996 and pass a reasoned order within a period of 30 days from the date of receipt of this order.

7. In the result, this OA stands disposed of in the afore stated terms. No costs.


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