

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 569 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

SMT. JAMUNA RANI BERA & ANR.

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. M. S. Banerjee, counsel
Mr. M. Bhownik, counsel

For the respondents : Mr. S. Choudhury, counsel

Heard on 23.4.99

Order on 23.4.99

ORDER

Smt. Jamuna Rani Bera and her fourth son, Sri Narayan Chandra Bera ^{filed} ~~filed~~ joint application before this Tribunal for direction upon the respondents to consider the case of applicant No. 2 Sri Narayan Chandra Bera for appointment on compassionate ground.

2. According to the applicants, Sri Bijoy Krishna Bera who was an employee (Class III) of South Eastern Railway at Santragachi died in harness on 28th September, 1994 while he was in service, leaving seven dependents including the applicant No. 1 and 2. Immediately after the death of the said Government servant, the applicant No. 1 made a representation to the authorities on 25th November, 1994 for compassionate appointment in favour of the applicant No. 2 who is the fourth son of the deceased railway employee stating inter alia that they are facing financial hardship due to the death of the railway employee, Sri Bijoy Krishna Bera. But the respondents did not consider the case of the applicant and ultimately they refused the prayer of the applicant vide letter dated 19.4.95 marked as Annexure 'D' to the application with a non-speaking order.

3. Feeling aggrieved by and dissatisfied with the said order dated 19.4.95 marked as Annexure 'D' to the application, the applicants approached this Tribunal for getting appropriate direction as sought for in the application.

4. Respondents filed written reply to the O.A. denying the claim of the applicants. In the written statement the respondents stated inter alia that the applicants ~~are~~ ^{Were} not in distress condition since three sons of the deceased employee are employed and the applicant/being the wife of the deceased employee, is getting family pension. The respondents in their reply further stated that the applicant No.1, the widow of the deceased employee have received all settlement dues on account of death of her husband and thereby they are not entitled to get the benefit of compassionate appointment.

5. Ld. counsel Mr. M.S. Banerjee, appearing on behalf of the applicant strenuously argued before me that no reason has been disclosed in the letter of rejection of the prayer of the applicant (i.e. Annexure 'D' to the application) as to why the applicant's case was not considered by the respondents. Thereby the said order is arbitrary and violative of principle of natural justice. Mr. Banerjee, Ld. counsel for the applicants submits that the applicant No.1 applied for appointment on compassionate ground in the year of 1994 and the said application had been disposed of in the year of 1995. Ld. counsel for the applicants further submits that no enquiry has been made from the side of the respondents to ascertain the financial condition of the applicants and two sons of the deceased employee are living separately as per the written reply submitted by the respondents. Thereby, the actions taken by the respondents are arbitrary and liable to be quashed.

6. Ld. counsel for the respondents, Mr. S. Chowdhury produces the ^{file} office today which shows that the respondents considered the financial condition of the applicants and on

enquiry it is found that the other three sons of the applicant No.1 are employed and the applicant No.1 is getting family pension. Ld. counsel Mr. Chowdhury submits that though no reason has been disclosed in the order dated 19.4.95 (Annexure 'D' to the application), yet the records show that the applicants are not in the distress condition and thereby, no illegal step has been taken by the respondents in this regard.

7. I have considered the submissions made by the ld. counsels for both the parties. It is now settled law that the scheme of compassionate appointment is not an enforceable right. Compassionate appointment is given to the defendant of the deceased employee for the purpose of immediate financial assistance to the family of the deceased. In the instant case, I find that admittedly the respondents did not disclose the reasons in the letter of rejection of the prayer of the applicant No.1 dated 19.4.95 marked as Annexure 'D' to the application. The said letter contained the following facts :-

"Your request for offering employment assistance to you has been carefully examined and the competent authority did not agree with your request as it is not admissible on administrative ground."

So, on the face of the said letter, it is clear that the reasons for rejection of the prayer of the applicant No.1 have not been disclosed. However, the respondents produced the office file relating to the said letter of refusal. From the file, it is found that out of the four sons of the applicant No.1, three are employed and the widow of the deceased employee, applicant No.1 is getting family pension.

8. In view of the aforesaid circumstances, I find that the respondents produced the office records and the reasons for rejection of the claim of the applicant No.1 have been recorded in the file. Moreover, the applicants failed to prove that they are in distress condition due to the death of the railway