

In the Central Administrative Tribunal
Calcutta Bench

OA No. 609 of 1996

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

Aparna Saha & Ors.

.... Applicants

Vs.

- 1) Union of India, represented by Directorate of Printing, Nirman Bhawan, New Delhi
- 2) Manager, Govt. of India Press, 1 Temple Street, Calcutta.

.... Respondents

For the Applicant : Mr. S.K. Dutta, Ld. Advocate

Mr. J.R. Ghosh, Ld. Advocate

Mr. T.K. Biswas, Ld. Advocate

For the Respondents: Mr. B. Mukherjee, Ld. Advocate

Heard on : 24-7-98

Date of Judgement : 24-7-98

O R D E R

Ms. Aparna Saha and Shri Uttam Sankar Saha, being widow wife and 3rd son of the deceased govt. servant Late Ram Kumar Saha respectively, applied to the respondents for consideration of the case of the applicant No.2 Shri Uttam Sankar Saha for appointment on compassionate ground since since Ram Kumar Saha died in harness on 25.12.84 and they also made several representations to the authorities under registered post with A/D; but till date their representations have not been disposed of. Being aggrieved and dissatisfied with the inaction or omission on the part of the respondents regarding consideration of compassionate appointment of the applicant No.2, they approached this Tribunal by filing this application.

2. Respondents filed reply in this case stating, inter-alia, that the deceased Ram Kumar Saha was a machine-man Gr.II in the Press and

Contd.....

their representations were considered by the Urban Development Minister and Minister's observation was communicated to Smt. Mamata Banerjee, M.P. who sponsored the case of the applicant vide letter dated 8.10.93 (Annexure R-1). Besides, the family was not in distress and as the family is having one storeyed house with two rooms as mentioned in part I of the form, they could not be deserving family for consideration of employment on compassionate ground. It is also stated by the respondents that the case was carefully considered by the Urban Development Minister; but the same could not be merited for consideration on compassionate ground for the reasons stated below :

- a) Her elder two sons are gainfully employed.
- b) The family has some immovable property.
- c) The widow is getting family pension.

So, application is devoid of merit and liable to be dismissed.

3. Id. Advocate Mr. Dutta, appearing on behalf of the applicant leading Mr. J.R. Ghosh and Mr. T.K. Biswas, submits that the grounds shown by the respondents for the purpose of considering the compassionate appointment of the applicant are totally baseless and irrelevant. Employment of other members of the family is not a good and sufficient ground for rejection of the prayer for appointment on compassionate ground. He further submits that the decision taken by the authority ought to have been communicated to the applicant. But no reason has been disclosed for non-consideration of the case of the applicant by the respondents. So he submits that respondents should be directed to communicate the decision after proper consideration of the application of the applicant No.2 for the purpose of appointment.

4. Id. Advocate Mr. Mukherjee for the respondents submits that the case is devoid of merit and it is a belated one and the case of the applicant was duly considered and that has been communicated to the applicant through Smt. Mamata Banerjee, M.P. who forwarded the case of the applicant for consideration. So, application should be dismissed.

5. I have considered the submissions of Id. Advocates of both the parties. It is true that there is laches on the part of the respondents regarding communication of the decision to the applicant who sought for appointment on compassionate ground in this case. But, it is found that application of the applicant No.2 Shri Uttam Sankar Saha has been forwarded to the Ministry being sponsored by Smt. Mamata Banerjee, M.P. and decision of the Ministry has been communicated to Smt. Mamata Banerjee. So, the respondents did not take any further action for intimating the decision to the person concerned. But now the question is that whether applicant is entitled to be considered for appointment for reason disclosed by the respondents in this case. It is found from the reply that the respondents did not appoint the applicant No.2 for the reasons which run as follows :-

- a) Her elder two sons are gainfully employed.
- b) The family has some immovable property.
- c) The widow is getting family pension.

6. It remains undisputed fact that father of the applicant No.2 died in harness in the year 1984, the widow is now getting family pension and her two sons are employed. The Hon'ble Appellate Court in a case of Umesh Kumar Nagpal reported (1994) SCC and subsequent decision in LIC's case reported in 1994 SCC(L&S) 737, categorically held that the Tribunal should direct for compassionate appointment being impelled by sympathy disregarding the instruction and law on the subject. It is also specifically stated that compassionate appointment should not re-open a back door for appointment without competition and the appointment should not be made after long delay as the very purpose of mitigating the distress is frustrated. So, in order to get benefit of the scheme it is necessary to establish that family is in the need of immediate financial assistance being indigent circumstances with no earning member in the family.

7. In the instant case I find that the applicant's father died in the year 1984 and application has been filed for appointment on

compassionate ground on 15.5.96 more than 12 years after the death of the deceased govt. servant. Admittedly, the applicant No.1, being widow is getting family pension. I find that after lapse of considerable time the very purpose of granting appointment on compassionate ground is not in operative in this case. The appointment on compassionate ground ~~can not be~~ is not granted unless the case is brought within the contingencies of the scheme, such as the family is in distress circumstances and unable to maintain herself without any financial assistance of employment. None of the ingredients are available in this case. In view of the aforesaid circumstances, I find that the application is belated one and is devoid of merit. Accordingly, application is dismissed awarding no costs.

11-5-96
(D. Purkayastha)
Member(J)