

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.C.A.1325 of 1996

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

JOYANTI ROY & ANOTHER

... Applicants

Vs.

1. Union of India through Secretary,
Department of Posts, Ministry
of Communication, Dak Bhawan,
Sansad Marg, New Delhi-110 001.
2. Chief Post Master General,
West Bengal Circle, Yogayog Bhawan,
P-36, Chittaranjan Avenue,
Calcutta-700 012.
3. Sr.Superintendent of Post Offices,
Murshidabad Division,
P.O.Berhampore, District-Murshidabad.

... Respondents

For the applicants : Mr.B.R.Das, counsel.
Mr.B.P.Manna, counsel.

For the respondents : Mr.S.K.Dutta, counsel.

Heard on : 7.1.1998

Order on : 7.1.1998

ORDER

The short question before me is that whether the matter of appointment on compassionate ground can be extended to the dependants of the deceased employee, who died in harness, for the second time when the department has exercised the power of compassionate appointment once in respect of the 1st son.

2. The case of the applicants in short is that the applicant no.2 is the youngest son of Late Jagannath Roy, who died in harness on

20.11.1984 leaving seven legal representatives. After the death of the deceased employee, the eldest son, Pallab Kumar Roy, was employed by the authority on compassionate ground. Thereafter, the said Pallab Kumar Roy committed some mischief for which a disciplinary proceeding was initiated against him and ultimately he was dismissed from service. Thereafter, applicant nos.1 and 2 have come with an application before the authority for appointment of the youngest son, namely, Mritunjey Roy, in place of Pallab Kumar Roy, who was dismissed from service. Ld.counsel appearing on behalf of the applicants, Mr.B.R.Das, submits that applicant no.1 sought for appointment of Prabal Kumar Roy, on compassionate ground, by a letter dated 17.3.1990 (annexure 'B' to the application) and thereafter vide her application at annexure 'D' dated 15.10.1993, she has prayed for the compassionate appointment of ^{of a because, in the meantime Prabal became physically unfit} Mritunjey Roy. According to the applicants, the family is still in distress and thereby the appointment on compassionate ground for the second time in place of Pallab Kumar Roy can be made by the authority. ~~has been contented on behalf of the applicants.~~ The applicants have thus approached this Tribunal for appointment on compassionate ground in respect of Mritunjey Roy, applicant no.2 in this case.

2. The case has been resisted by the respondents by filing a written statement where they deny the claim of the applicants in this case. It is stated that after the death of the deceased employee, Pallab Kumar Roy was engaged on compassionate ground after completion of the requisite training. While he was discharging his duties of Postman, Pallab Kumar Roy committed fraud to the tune of Rs.1700/- by forging the signatures of the payee of several money orders and he was placed under suspension on 3.9.1987 and subsequently he was dismissed from service ~~and~~ after a disciplinary proceeding initiated against him by an order dated 28.2.1989. As

such, the application does not have any merit and is liable to be dismissed.

3. Ld.counsel appearing on behalf of the applicants submits that compassionate appointment can be granted for the second time if the family is found still in distress and thereby the respondents may be directed to give appointment to applicant no.2 on compassionate ground after the appointment of Pallab Kumar Roy, on compassionate ground, since dismissed from service.

4. Ld.counsel, Mr.S.K.Dutta, appearing on behalf of the respondents, submits that the application is barred by limitation and under the scheme also, applicant no.2, Pritynjoy Roy, cannot be employed on compassionate ground, after the dismissal of pallab Kumar Roy who was appointed on compassionate ground under the scheme and hence the application is liable to be dismissed.

5. In order to set right the disputed question raised by the ld.counsel for both the parties, I like to refer to the judgment passed in Jagadish vs. State of Bihar ^{(1996 SCC (143) 303)} whereby their Lordships of the Hon'ble Apex Court categorically held the very object of appointment of a deceased employee who died in harness is to relieve unexpected immediate hardship and distress caused to the family by the sudden demise of the earning member of the family. Since the death occurred way back in 1971 in which year the appellant was 4 years old, it cannot be said that he is entitled to be appointed after attaining majority long thereafter. In other words, if that contention is accepted, it amounts to another mode of recruitment of the dependant of a deceased Govt. servant which cannot be encouraged and horse the recruitment rules. It remains undisputed that the matter of compassionate appointment under the scheme does not confer vested right for the dependants to get the compassionate appointment unless found ^{they are} eligible, as per rules, to a particular post. In the instant case, it is an admitted fact that after the death of the deceased employee,

Jagannath Roy, his 1st son, Pallab Kumar Roy, was employed on compassionate ground. Unfortunately, he could not maintain his service due to mischief ^{of fraud} committed by him and he was dismissed from service. After his dismissal, applicant no.1, the wife of the deceased employee, has come with another application for appointment on compassionate ground in respect of her youngest son, Mritunjoy Roy, whose date of birth as per the submission of the applicant is 6.11.1972. Ld.counsel, Mr.B.R.Das has stated that initially the prayer for appointment on compassionate ground after Pallab Kumar Roy was for Prabal Kumar Roy, but unfortunately Prabal Kumar Roy is found suffering from Tuberculosis and thereby the widow of the deceased prayed for appointment on compassionate ground for Mritunjoy Roy, the youngest son, through an application dated 15.10.1993.

6. Compassionate appointment is an exception to the general recruitment rules and it does not confer any vested right upon the family of the deceased employee. The Hon'ble Apex Court in Umesh Kumar Nagpal's case categorically held that the whole object of granting compassionate appointment is to enable the family of the deceased employee to tide over the sudden crises and has also further opined that appointment on compassionate ground should be made strictly on the basis of the indigent circumstances of the family. Now the Hon'ble Supreme Court by various judgments reported in 1977 SCC (L&S) 711 (State of Haryana vs. Suraj Bhan) and 1996 SCC (L&S) 1236 (State of Haryana vs. Surjit Singh) have categorically opined that compassionate appointment cannot be granted to the sons after a lapse of several years. Admittedly, the deceased employee died in the year 1984 and his eldest son, Pallab Kumar Roy, was appointed on compassionate ground after attaining majority. In view of the aforesaid circumstances, I am of the view that once

appointment on compassionate ground has been granted to the 1st son of the deceased employee who died in harness, that cannot be extended subsequently to another son after the dismissal of the 1st son from service in a disciplinary proceeding. Such appointment is not permissible under the scheme.

7. Thereby the application is not maintainable, ^{as demand or merit} and liable to be dismissed and accordingly it is dismissed awarding no costs.

HL 197
(D. Purkayastha)
Judicial Member