

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1343/1996

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

LAKSHMI RANI DAS & ANR.

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mrs. B. Ray, counsel

Heard on : 1.6.99

Order on : 1.6.99

ORDER

In this O.A. the applicants namely Lakshmi Rani Das widow of Late Nagen Das, Ex-Gangman, under the PWI, Panskura, South Eastern Railway and Birendra Nath Das son of Late Nagen Das have prayed for appointment on compassionate ground in favour of the applicant No. 2, Birendra Nath Das. According to the applicants, the deceased employee, Nagen Das was appointed as a Gangman on 21.5.65 and acquired temporary status on 21.1.66 and he died on 14.2.74. under the respondents. Thereafter the widow of the deceased employee was granted family pension and her husband was regularised in service from the date of his death i.e. on 14.2.74 by the order of the Tribunal dated 27.4.93. On 3.5.93 the applicant No. 1, widow of the deceased employee made an application to the authorities praying for appointment on compassionate ground in favour of her second son (applicant No. 2), Birendra Nath Das (Annexure 'C' to the app.). But the representation of the applicant No. 1 was not considered by the authority. So, she made an application to the Assistant Labour Commissioner (Central), Calcutta to consider her case. The Assistant Labour Commissioner sent her representation to the General Manager and finally by a letter dated 15.10.96 the applicant was informed that her case was taken up to the Railway administration but no fruitful

result has come out(Annexure 'D' to the app.). Hence the applicants filed this O.A. before the Tribunal for getting relief.

2. Respondents filed written reply denying the claim of the applicant stating inter alia that the scheme for appointment on compassionate ground came into force w.e.f. 30.4.79 vide Railway Board's Letter No. E(NG)III/78/RC1/1 circulated through Estt. Srl. No.163/79. The applicant No.1 filed O.A.No.456 before the Tribunal in 1992 for grant of family pension only and her husband was deemed to have been regularised from the date of his death i.e. on 14.2.74 (marked as annexure 'A' to the O.A.). But the Railway Board vide its letter No. E(NG)II-77CL/46 dated 8.6.81 circulated through Estt. Srl. No.132/81 states that "There is no deemed regularisation provision in the Railway." Copy of the said circular is annexed as R-1 to the reply. Moreover, the Hon'ble Tribunal has also in many cases denied the 'deemed regularisation'. Besides, this application is a belated one and thereby the same is devoid of merit and is liable to be dismissed.

3. Ld. counsel Mr. A. Chakraborty appearing on behalf of the applicant submits that since the deceased employee was deemed to have been regularised from the date of his death, thereby compassionate appointment may be given to the son of the employee, applicant No.2, considering the financial instability of the family. The respondents did not consider the case of the applicants despite it was recommended by the Assistant Labour Commissioner(Central), Calcutta.

4. Mr. B. Ray appearing on behalf of the respondents, submits that the employee died on 14.2.74 and the scheme for appointment on compassionate ground came into force in 1979. Moreover, the applicants did not approach immediately after the death of the employee except filing of one O.A.No.476/1992 for grant of family pension only. So, this application is barred by limitation since it is filed in 1996. Ld. counsel

Mrs. Ray relied on the judgment reported in 1999(1) Supreme

Court Services Law Judgment, page-293 (State of U.P. and Another Vs. Parasnath). Referring to the said judgment, Mrs. Ray submits that the application cannot be entertained since it is barred by limitation and the object of granting such compassionate appointment is not in operation at this stage.

5. I have considered the submissions made by the 1d. counsel for both the parties and gone through the records. I find that the application is a belated one. The applicants filed this application before the Tribunal in 1996 and the employee died on 14.2.74. It is admitted fact in this case, that the family of the deceased employee had been able to manage anyhow after the death of the employee without any employment assistance from the year 1974 to 1996. The main object of appointment on compassionate ground is to alleviate the distress of the family of the deceased employee by giving financial assistance. In the instant case, the applicants approached before the Tribunal after a lapse of more than 20 years and thereby the object of compassionate appointment as sought for in the O.A. is no longer in operation. In view of the judgment of the Hon'ble Apex Court, as relied upon by the 1d. counsel for the respondents I am of the view that the application is devoid of merit and is liable to be dismissed.

6. In view of the aforesaid circumstances, the application is dismissed awarding no costs.


(D. PURKAYASTHA)
MEMBER(J)

s.m.