

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1458/1996

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

PRADIP KUMAR SHAW & ANR.

VS.

UNION OF INDIA & ORS.

For the applicants : Mr. A.K. Banerjee, counsel

For the respondents : Mr. S.P. Kar, counsel

Heard on : 24.6.99

Order on 24.6.99

O R D E R

Heard 1d. counsel for both the parties over an application for compassionate appointment which has been filed by Pradip Kr. Shaw, son of the deceased employee (applicant No. 1) and Radha Devi Shaw @ Radha Devi, widow of the deceased servant (applicant No. 2). The case of the applicants in short is that Rajendra Prasad Shaw who was working under India Government Mint, Alipore, Calcutta attached to Electrical Department having Ticket No. 1308, died in harness on 5.5.91. After the death of the employee, the applicant NO. 1 applied for compassionate appointment to the authorities vide his letters dated 6.7.93, 18.8.93, 5.8.95, 10.4.96 and 29.8.96. It is stated by the applicants that the widow of the deceased, Radha Devi Shaw (applicant No. 2) submitted no objection certificate in favour of applicant No. 1 for the purpose of his appointment on compassionate ground. But the respondents did not take any action on that representations. It is also stated by the applicants that another lady claimed to be widow of the deceased person, Rajendra Prasad Shaw and received all the benefits which was due to the applicants on account of death.

of the Government servant and that facts have been intimated to the General Manager, India Government Mint, Alipore, Calcutta vide letter dated 16.9.1993(Annexure 'B'). Thereafter, applicant No.1 made several representations to the authorities claiming to be the legitimate son of the deceased employee and prayed for considering his case for appointment on compassionate ground. But the respondents did not consider his prayer and thereby the applicants filed this O.A. before the Tribunal for direction upon the respondents to consider their case for compassionate appointment in favour of applicant No.1.

2. Respondents filed written statement denying the claim of the applicants. It is stated by the respondents that the applicant No.1 claiming himself as the first son of the deceased employee applied for compassionate appointment to the authorities on 6.7.93 and subsequently Radha Devi Shaw widow of the deceased employee applied for the same on 19.7.1993. Thereafter, a memo vide No. 104-72(Sub)/5328 dated 27.07.93 was issued by the respondents under registered post with A/D and was sent ~~to~~ the recorded residential address of the applicant No.1.

But, applicant No.2, Radha Devi Shaw again applied to the authorities for employment on compassionate ground in favour of her second son Rajib Kumar Shaw, on 18.8.93 on the plea that her first son, applicant No.1 is married, employed in the private concern and live separately without providing any financial assistance to her. Under such circumstances, the respondents could not take any step regarding compassionate appointment ~~as there was dispute regarding candidature for such appointment.~~ It is also stated by the respondents that the deceased employee executed nomination in favour of Radha Devi Shaw residing at 17/1 M.C. Ghosh Lane, Howrah, in respect of pension, gratuity, Provident Fund etc. and Radha Devi Shaw applied to the authorities for such payment after the death of the deceased employee. Accordingly, an amount of Rs. 2,500/-

was paid to the said nominee of late Rajendra Prasad Shaw on 13.5.91 after the claimant was identified by the two employees of the department. So, on the basis of the declaration made by the deceased employee, all the dues were paid to Radha Devi Shaw. It is further stated by the respondents that the applicants filed a title suit No. 149/1996 against the Union of India & Ors. before the 1d. Court of 5th Munsiff at Alipore in the matter of payment of Gratuity, Pension, Provident Fund etc. and the said/suit is still pending for adjudication.

It is stated that the respondents could not consider the case of the applicants in respect of appointment on compassionate Ground since the said case is to be resolved by the Civil Court. So, the application is devoid of merit and is liable to be dismissed.

3. Mr. A.K. Banerjee, appearing on behalf of the applicants submits that the applicants filed the said title suit No. 149/96 before the Civil Court claiming that the respondents made payment of retirement dues to another lady on the basis of false identification by some employees of the department and such dispute is regarding payment of retirement dues of the deceased employee to his widow. But there is no dispute regarding the status of applicant No. 1 Pradip Kr. Shaw, son of the deceased employee and thereby the case of applicant No. 1 may be considered for compassionate appointment inspite of the pendency of the said title suit in the Civil Court.

4. Mr. S.P. Kar 1d. counsel appearing on behalf of the respondents submits that in this application the address of applicant No. 1 is given as, 17/1 M.C. Ghosh Lane, Howrah but in the title suit which is lying pending before the Civil Court the address of applicant No. 1 is 7A, Raja Lane, Amharst Street, Calcutta. So, there is dispute regarding the identity of applicant No. 1 and unless that matter is decided by the Civil Court, the prayer for compassionate appointment

in favour of applicant No.1 cannot be considered by the respondents.

Mr. Kar produces the plain of the title suit filed by the applicants in the Civil Court as mentioned above. I have gone through the plain of the said title suit No. 149/96 and find that the address of Radha Devi Shaw @ Radha Devi is given as 7A, Rajarhat Lane, Amharst Street and the address of Pradip Kumar Shaw is given as 17/1, M.C. Ghosh Lane, Howrah. Mr. Kar further produces the relevant file containing the declaration of the deceased employee in the year 1980. On a perusal of the said declaration given by the deceased employee it is found that Pradip Kumar Shaw is one of the dependants of the deceased employee and the deceased person had another son who is mentioned as Rajiv Kumar Shaw. Mr. Kar also produced a letter written by Radha Devi Shaw widow of the deceased employee dated 19.8.93. The said letter is addressed to the Administrative Officer, India Government Mint, Alipore wherein the widow of the deceased Radha Devi Shaw stated that she has no business with Pradip Kr. Shaw and she requested the authority to consider the case of compassionate appointment in favour of Rajiv Kr. Shaw in place of Pradip Kr. Shaw.

5. Mr. Banerjee appearing on behalf of the applicants submits that Radha Devi Shaw did not make such application as submitted by Mr. Kar.

6. On a perusal of official records, it is found that there are other legal representatives of the deceased employee except the applicants. Under such circumstances, I find that there is serious dispute in respect of identity of Radha Devi Shaw. So, unless the identity of the applicants are declared by the Civil Court, it is not possible on the part of the Tribunal to adjudicate the grievance of the applicants in this case.

7. In view of the aforesaid circumstances, the application is dismissed awarding no costs. It is mentioned here that the applicants may approach after finalisation of the title suit ^{149/96} pending before the Civil Court.