

In the Central Administrative Tribunal
Calcutta Bench

MA 388 of 1996
(OA 1466 of 1996)

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

Manashi Das Chakladar & Ors.Applicants

- VS -

- 1) Union of India, service through the Secretary, Ministry of Planning & Programme Implementation, Department of Statistics, Sardar Patel Bhawan, New Delhi.
- 2) Joint Director, National Sample Survey Organisation(FOD), D/O Statistics, Mahalanabish Bhawan, Calcutta.
- 3) Deputy Director(Admn.), NSSO(FOD) D/o Statistics, R.K. Puram, New Delhi.
- 4) Regional Assistant Director, NSSO (FOD), Salt Lake, Calcutta.

.... Respondents

For the Applicant : Mr. P. Chatterjee, Advocate


For the Respondents: Ms. U. Sanyal, Advocate

Heard on : 10-5-99

Date of Judgement : 10-5-99

ORDER

The dispute in this case is as to whether the applicant is entitled to get appointment on compassionate ground on account of death of her husband late Ashimananda Das Chakladar (Ex-employee of NSSO, FOD) who died in harness at the age of 53 yrs. Grievance of the applicant, in short, is that the husband of the applicant No.1 died on 25.3.92 and immediately after the death of the deceased govt. employee, the applicant No.1 made representation to the authority on 1.10.92 for her appointment to the post of IDC on

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compassionate ground. But the respondent vide letter dated 10.5.93 rejected the prayer of the applicant stating inter-alia that her application for appointment to the post of LDC on compassionate ground has been considered by the Department; but her case has not been found deserving for compassionate appointment. It is stated that Indian Association of Assistant Superintendents, NSSO (FOD) also requested the authority vide letter dated 24.1.95 for consideration of appointment of the applicant No.2 on compassionate ground stating, inter-alia, that Smt. Das has been nearly starving with her two sons - one aged 18 years who is reading in class XII and the other 15 years who is reading in class X. Both the sons are going to school. In addition to the educational expenditure of two sons, Smt. Manashi Das Chakladar is staying in a rented house since she does not possess any residence of her own. It is also impossible for her to maintain the family with meagre pension she receives. That request of the Association also has been turned down by the respondents. Thereby, applicant approached this Tribunal filing this application for consideration of the appointment of the applicant No.2 on compassionate ground.

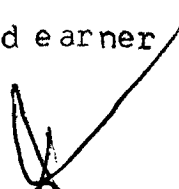
2. But respondents denied the claim of the applicant stating, inter-alia, that after the death of the deceased govt. employee, the wife Smt. M. Das Chakladar applied for the post of L.D.C. in the Department on 1.10.92 and the application was forwarded to the Director, NSSO, (FOD), Calcutta on 26.10.92. The application was considered and rejected by the competent authority with a note that she received a sum of Rs.2,75,881.00 as terminal benefit. In addition to, she gets a sum of Rs.1016/- as monthly family pension. So, she cannot be considered in distress condition. Thereby, she also made representation to the Director, NSSO which was also received by the office on 20.8.93 and was also rejected vide letter dated 15.10.93 (Annexure R-1). It is also stated by the respondents that at present this Division is not in a position to accommodate anyone on compassionate ground in the post of LDC i.e. Group 'C' post. The Department of Personnel and Training has prescribed 5% quota to be filled up through

appointment on compassionate ground out of the vacancies arising in Group 'C' posts. This Division has already exhausted this quota and 11 applications considered to be of deserving candidates are pending for want of vacancies. Thereby, application should be dismissed.


3. Id. Advocate Mr. Chatterjee on behalf of the applicant submits that applicant's representation is still pending and her case was not properly considered by the authority. From the letter of rejection it is seen that her case was rejected without assigning any reason. So, order of rejection communicated to the applicant vide letter dated 10.5.95 is arbitrary, illegal and liable to be quashed.

4. Id. Advocate Ms. Sanyal on behalf of the respondents submits that after rejection of the prayer of the mother, mother (Applicant No.1) also did not apply for appointment for her son. Thereby, application is liable to be dismissed.

5. I have gone through the records and considered the submissions of Id. Advocate of both the parties. It is not correct fact that the mother of the applicant did not apply for appointment for her son. From the letter dated 24.1.95 (Annexure R-2), produced by the respondents shows that the Association requested the authority for appointment for the son of the applicant No.1. Applicant also did apply for his appointment on compassionate ground. However, respondents did not disclose any reason whatsoever in the letter dated 10.5.93 (A-1) as to why her application was not found fit to be considered for appointment on compassionate ground. But it is found from the record that mother applied for her son for appointment on compassionate ground and that was submitted on 10.4.94. In a case reported in AIR 1989 SCC (Sushama Gosain - VS - Union of India), the Supreme Court opined that in all claims for appointment on compassionate ground, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family.


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Such appointment should, therefore, be provided immediately to redeem the family in distress. Since the respondents did not disclose any reason as to why applicant's case could not be found fit to be considered for appointment on compassionate ground, it can be said that the impugned order dated 10.5.93 (Annexure A-1) issued by the Deputy Director(Admn) is devoid of reason and cryptic in nature and is liable to be quashed. It is also found that applicant, on attaining the majority of her son, applied for appointment in favour of her son. But that has not yet been disposed of by the respondents. It be mentioned here that retirement dues received by the family would not be relevant for consideration of appointment on compassionate ground under the scheme. Higher qualification of the candidate cannot be a bar for consideration for appointment even in any lower post available in the department in order to mitigate hardship due to the death of the bread-earner in a family. I find that application dated 10.4.94 is yet to be disposed by the respondents. Retirement settlement benefits received by the applicant also cannot be a good ground for rejection of compassionate appointment. In view of the aforesaid circumstances, I direct the respondents to consider the representation dated 10.4.94 and to pass reasoned and speaking order in the light of the observation made above and to communicate the decision to the applicant within two months from the date of receipt of this order. If the decision comes in favour of the applicant, this case may be considered for appointment if vacancy is available in the department even in Group 'D' post. Applicant applied for condonation of delay. On perusal I am satisfied that there is sufficient ground for condonation of delay in filing application before the Court. Accordingly, application along with MA is disposed awarding no costs.


(D. Purkayastha)
Member(J)