

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No.196 of 1996

Present : Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Mr. S. Biswas, Administrative Member

1. Smt. Kamala Samanta, W/o Late Ratan Chandra Samanta, Ex-Chowkidar under I.O.W., S.E. Rly., Shalimar, residing at Vill. Uttarmirzapur, P.O. Kharui, Dist. Midnapore

2. Shri Debendra Nath Samanta, S/o Late Ratan Chandra Samanta, residing at Vill. Uttarmirzapur, P.O. Kharui, Dist. Midnapore

... Applicants

VS

1. Union of India service through the General Manager, S.E. Rly., Garden Reach, Calcutta-43

2. The Divisional Railway Manager, S.E. Rly., Kharagpur, P.O. Kharagpur, Dist. Midnapore

3. Sr. Divisional Personnel Officer, S.E. Rly., Kharagpur, P.O. Kharagpur, Dist. Midnapore

4. The I.O.W., S.E. Rly., Shalimar, Dist. Howrah

... Respondents

For the Applicants : Mr. A. Chakraborty, counsel

For the Respondents : Ms. A. Singh, counsel

: : Date of order: 17-01-2003

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, VC(J)

In this application the applicants are aggrieved by the order issued by the respondents on 20.3.1995.

2. The brief relevant facts of the case are that the husband of applicant No.1 died while in service on 27.7.88. Applicant No.2 states that he is the son of the late Railway employee, Ratan Chandra Samanta, and had submitted a representation for appointment on compassionate grounds to the respondents vide his representation dated 12.5.89.

3. The respondents in their reply have denied the receipt of

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this representation. According to the respondents, the applicant made a representation only for the first time on 19.10.93. The learned counsel for the respondents has, therefore, submitted that this application for consideration for appointment on compassionate ground is highly belated. Apart from that, applicant No.2 was over 40 years of age and applicant No.1, the widow of the deceased employee was also drawing family pension, besides other settlement dues. The learned counsel has also submitted that applicant No.2 has submitted two dates of birth as referred to in the certificates issued, copies of which are placed at Annexures 'R-VI' and 'R-VII'. She has also referred to Annexure 'R-VIII' which is a letter dated 10.2.95 in which the person who had issued the earlier certificate has stated the fact as under :

"That due to conspiracy, threatening and under the political pressure I was bound to issue T.C. in favour of of Sri Debendra Nath Samanta showing the date of birth as 09/04/47 instead of his actual date of birth 26.05.1957 for 2nd time. Now, I do hereby certify that the actual date of birth of Sri Debendra Nath Samanta is 26.05.1957 and to accept the transfer certificate dated 26.8.1993 which was issued first time by me. Accordingly all the office papers and records may be corrected as 26.05.1957."

4. The learned counsel for the applicant has contended that the applicant is still out of job, although he is 45 years of age taking his date of birth as 26.5.57, which is mentioned in Annexure 'R-VI'. He has submitted that the impugned letter dated 20.3.95 is a non-speaking order. He has, therefore, prayed that the same may be quashed and set aside and the respondents be directed to pass a speaking order on the request of applicant No.2 for compassionate appointment.

5. We have carefully considered the submissions and the relevant documents on record.

6. The applicants have preferred to a Title Suit No.TS 143 of 1989 which was filed by certain persons claiming entitlement for settlement dues of late Shri Ratan Chandra Samanta. The suit was decreed on compromise and pursuant to that decree the pensionary benefits were paid to applicant No.1. In para 4.5 of the OA,

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also brought out the reasons for not granting the request of applicant No.2 for appointment on compssionate ground which facts have not been in any way controverted by the applicants. In the particular circumstances of the case, we, therefore, do not consider it necessary to direct the respondents to pass a speaking order in this case at this stage, as it will not serve any useful purpose.

8. In the result for the reasons given above, the OA fails both on the ground of laches and delay and merit. OA is accordingly dismissed. No order as to costs.

S. Biswas
(S. Biswas)

MEMBER (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

VICE-CHAIRMAN (J)

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