

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 411 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

1. Smt. Parul Mondal, w/o Late Kanta Mondal, aged about 45 years, Housewife, at present residing at Vill. Abada, P.O. Sakrail, Dist. Howrah(West Bengal) ;
2. Uttam Mondal, s/o Late Kanta Mondal, aged about 19½ years, unemployed, at present residing at Vill. Abada, P.O. Sakrail, Dist. Howrah(WB).

..... Applicants

-Versus-

1. Union of India, service through General Manager, Eastern Railway, Fairlie Place, Cali;
2. General Manager, Eastern Rly, Fairlie Place, Calcutta-1;
3. Divisional Rly. Manager, E.Rly., Howrah;
4. Sr.Divl. Personnel Officer, E.Rly., Howrah.

..... Respondents

Counsel for the applicants : Mr. B.C. Sinha
Mr. P.K. Ghosh

Counsel for the respondents : Mr. C. Samaddar

Heard on : 12.12.1996 - Order on : 16-1-1997

O R D E R

A.K.Chatterjee, VC

One Kanta Mondal, the husband of petitioner No.1 and father of the other petitioner was a Gangman under Eastern Railway and died in harness on 18.2.90 leaving behind the present petitioners and two other children younger than the petitioner No.2. At the time of his death, the petitioner No.2 was a minor aged only about 13 years and soon thereafter, the petitioner No.1, the widow made

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an application on 27.2.90 seeking an appointment for herself on compassionate ground. The authorities in answer to her application dt.27.2.91, gave a letter dt.3.7.91 asking her to appear before the Assistant Personnel Officer on 18.7.91 to prove that she was able to read and ^{write} in any language. She did so but apparently could not establish that she could read or write and she was instructed to gain literacy. Then on 8.3.95, she made another application for appointment of her eldest son who happens to be the petitioner No.2 for an appointment on compassionate ground stating that he was born on 5.5.76 and has since attained majority. However, she was informed by the D.R.M. by his letter dt.20.11.95 that her son, the present petitioner No.2 could not be appointed on compassionate ground as the case was time-barred. The instant application has been made, inter alia, on the ground that the application for compassionate appointment of the petitioner No.2 has been made within one year of attainment of majority and as such it could not be said to be barred by time.

2. The respondents in their counter contend, inter alia, that the offer of appointment to the widow is still open if she can develop literacy and after more than five years of the death of her husband, she made an application for appointment on compassionate ground for her son, which could not be considered as it was time-barred.

3. We have heard the Ld.Counsel for both the parties and perused the records before us. In the instant application, the relief prayed for by the petitioners is a direction for appointment of the son(the petitioner No.2) and not of the widow, the petitioner No.1. However, the Ld.Counsel for the petitioners has urged that under the extant rules, even illiterate widows can be considered for appointment to certain posts, such as Water Women,

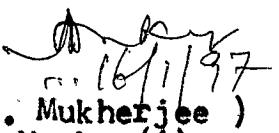
Retiring Room Attendant, Sweeper Women, Ayah etc. and, therefore, it was incumbent upon the respondents to consider if the petitioner No.1 could be appointed to such a post when she made an application soon after the death of her husband, instead of calling upon her to prove her ability to read and write ⁱⁿ any language. There is hardly any satisfactory answer to this contention, although it must be noted that in the instant application, prayer has been made for an appointment of the petitioner No.2.

4. The petitioner No.2 had attained majority on 5.5.94 and his father had died on 18.2.90. The petitioner No.1 made an application for compassionate appointment of petitioner No.2, which has been annexed as A/4 to the application. This purports to show that it was made on 8.3.95, but the reply by the authorities shows that she made the application on 9.5.95. The petitioner has not produced any document to indicate how the application for appointment of her son was sent i.e. whether by registered post or personally etc. Now if 9.5.95 is taken as the date of making the application, then it is found that it has been made four days after the petitioner had attained majority and a little more than two months after the expiry of five years period from the death of Kanta Mondal. Under the rules, it is no doubt true that the application for compassionate appointment in such cases should be made within one year from the date of attainment of majority. The five year rule referred to above would not obviously apply in the present case as the petitioner No.2 did not attain majority within five years of death of his father but in any case, it is well within the competency of the General Manager to consider the application for appointment on compassionate ground made beyond five years from the date of death of Kanta Mondal. The only snag, which stands in the way is that the

application has been made about four days after expiry of one year from the date of attainment of majority of the petitioner No.2. ~~On the other hand~~ ^{However}, if the date of application is taken as 8.3.95, as found in the copy of the application itself, then it must be held that it was made within one year from the date of attainment of majority of petitioner No.2. The respondents have no doubt stated that this application was made on 9.5.95 but this controversy could be settled if the original application filed by petitioner No.1 was produced before us. This, however, was not done and in such peculiar facts and circumstances of the case, we are disposed to hold that the application for appointment of the petitioner No.2 ought not to be thrown out on ground of limitation and it should be considered by the appropriate authority in accordance with other extant rules.

5. We, therefore, dispose of the application quashing the order of the D.R.M., Howrah dt.20.11.95, Annexure-A/4 to the application and direct the respondents, in particular the respondent No.2 to consider the case of appointment of petitioner No.2 on compassionate ground within 8(eight) weeks from the date of communication of this order and in the event the prayer for such appointment is turned down, a speaking order shall be passed, which shall be communicated to the petitioner as soon as it is passed.

6. No order is, however, made as to costs.


16/1/97
(M.S. Mukherjee)
Member (A)


16.1.97
(A.K. Chatterjee)
Vice-Chairman