

In the Central Administrative Tribunal
Calcutta Bench

OA No.629 of 1997.

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

Smt. Kumari Surin & Anr.

Vs.

Union of India & Ors.

For the Applicant : Dr. S. Sinha, Ld. Advocate

For the Respondents: Mr. P. Chatterjee, Ld. Advocate.

Heard on : 8-6-1998

Date of Judgement : 8-6-98

ORDER

Applicant No.2 is the second son and applicant No.1 Smt. Kumari Surin, widow wife of the Govt. deceased employee late Jakaria Surin, ex-TSM under Yard Master, Birmitrapore, S.E. Railway in the Chakradharpur Division, filed this application jointly being aggrieved by non-consideration of the representations dated 5.8.88, 16.7.90 and 31.10.94 for appointment on compassionate ground on account of death of his father who died in harness while he was in service. According to the applicants, the first son of the deceased employee was appointed on compassionate ground without taking any consent from the applicants and thereby, they applied for appointment on compassionate ground on attaining the majority of the applicant No.2, son of the applicant No.1 for appointment on compassionate ground that that application has not been considered by the respondents. Hence, they approached this Tribunal seeking relief by way of direction upon the respondents to consider the case of the applicant No.2 for appointment on compassionate ground in Group 'D' category.

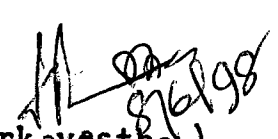
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2. The case is resisted by the respondents by filing a written reply denying the claim of the applicant and stating that the application is a delayed one and is barred by law of limitation. It is also stated in the reply that the application suffers from material defects since the applicant in the representation dated 5-8-88 (Annexure 'A' to the application) specifically stated that the applicant No. 2 appeared in AHSC examination, 1990 and failed. Instead of that letter the applicant also produced one Transfer Certificate dated 14.9.96 which also indicates that the applicant No.2 appeared in AHSC examination in the year 1990. Thereby it can be said that in the original application (Annexure 'A') did not show the correct figure regarding date of the examination of the applicant No.2. Thereby application is liable to be dismissed.

3. I have considered submissions of Ld. Advocates of both the parties and it remains undisputed that applicant No.1 has one step son who was appointed on compassionate ground and his step son was not made the party here. According to the applicant, she is entitled to apply for appointment on compassionate ground in respect of applicant No.2. It remains admitted in this case that when the applicant No.1's husband died, applicant No.2 at that time was minor. When applicant No.2 attained majority, he applied for appointment on compassionate ground and appeared in the AHSC examination in 1990, which is absolutely incorrect statement made in the application, Thereby, it is found that applicant No.2 does not come with clean hand for getting appointment on compassionate ground. However, I find that the application is a delayed one and should not be entertained for consideration for appointment on compassionate ground. An application cannot be kept binding for ever for appointment on compassionate ground as per decision in the case of Haryana S.E.B. Vs. Naresh Tanwar & Ors, (1996) (L&S) 816. Similar view was also taken by the Hon'ble Apex Court in another judgement in a case of Jagadish Prasad Vs. State of Bihar and Ors. On the face of the aforesaid judgement of the Hon'ble Apex

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Court I have no alternative but to reject the application on the ground that the application is a delayed one and such consideration cannot be kept binding for ever and thereby, application is dismissed as devoid of merit on the ground stated above.


(D. Purkayastha)
Member (J)