

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.683/1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

KAUCH ALI GAZI

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B.C. Sinha, counsel

For the respondents : Mr. P.K. Arora, counsel

Heard on : 01.02.2000

Order on : 01.02.2000

O R D E R

D. Purkayastha, J.M.

In this application, the applicant has prayed for a direction upon the respondents to give him appointment on compassionate ground in the post of Group 'D' category since his father died in harness on 21.2.85. According to the applicant, his father namely, Daud was working under the respondents in the post of Vulveman. After the death of the Government employee, the wife of the deceased ^{Smt. Janathan} had filed one application before this Tribunal bearing No.O.A.262/1986 seeking the relief regarding payment of retiral benefits of the Government employee and compassionate appointment in favour of her son. The said application has been disposed of by the Tribunal on 11.9.1986 with a speaking order wherein it is mentioned that:-

"There is another prayer that the employee's son should get an employment in the department concerned. We find from the reply that a test was taken and an opportunity was given to him but he was not found suitable as stated in the reply. In any event the authorities concerned may reconsider this matter. But this is not a mandate but a recommendation."

Thereafter, Smt. Janathan had filed another application bearing No.M.A.(Con) 353 of 1988 with C.A.187 of 1991(Annexure R-I) which was also disposed of on 25.2.1992. ~~But~~ Thereafter, the respondents

did not take any action in this regard despite of repeated representations filed by the widow of the deceased and ultimately, the son of the deceased employee, the applicant in this case has come before this Tribunal for getting appointment on compassionate ground by filing this application bearing No. O.A.683/1997.

3. Respondents have filed written reply denying the claim of the applicant stating inter alia that only permanent staff can get the benefit of compassionate appointment in case of death in harness as per rules. As Late Daud Ali did not attain permanent status, so the question of family pension and compassionate appointment to his son does not arise at all. It is also stated by the respondents that the application is belated and barred by limitation. Therefore, the application should be dismissed as being devoid of any merits.

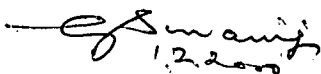
4. Ld. counsel, Mr. B.C. Sinha appearing for the applicant, submits that the respondents did not reconsider the case of the applicant for the purpose of compassionate appointment as directed by the Tribunal though the applicant had made representation in this regard to the authorities. He relies on the judgment of this Tribunal passed in O.A.No.1071/91 in the matter of Jamunabala Sarfar Vs. Union of India & ors. decided on 22.2.1994 and prays for a direction upon the respondents to give compassionate appointment to the applicant on account of his father's death.


5. Ld. counsel, Mr. P.K. Arora appearing for the respondents, contended that the applicant is not entitled to get the benefit of compassionate appointment in view of the judgment passed ^{aforesaid} by the Tribunal in the contempt petition filed by the widow of the deceased. He further submits that this application is barred by res judicata in view of the fact that the Tribunal had already decided the question of compassionate appointment in the said contempt petition. Moreover, the application is belated one and thereby it should not be entertained as per rules.

6. We have considered the submissions of the ld. counsels for both sides and have perused the records. We have also perused the Railway Board's circular bearing No.18/1987 relating to the matter of compassionate appointment in respect of casual labourers, as produced by the ld. counsel for the applicant. But that circular is not applicable in this matter since the father of the applicant did not acquire temporary status. We find that the matter of compassionate appointment has been well settled by the Hon'ble Apex Court in several judgments. The Hon'ble Supreme Court had rejected belated application for compassionate appointment in the case of Jagdish Prasad Vs. State of Bihar & Another ^{✓ L 1996 SCC (L&S) 313,} and in the case of Haryana State Electricity Board Vs. Naresh Tanwar & Anr. reported in 1996 SCC(L&S) 816. In the instant case, the father of the applicant died in the year 1985 and the applicant somehow managed his family without having any financial assistance for a long time. Moreover, the Tribunal directed the respondents to reconsider the case of the applicant as a recommendation and it was specifically mentioned in the order dated 11.9.1986 in O.A.No.262/1986 that this is not a mandate but a recommendation. However, the respondents reconsidered the matter and the applicant was not found fit for appointment on compassionate ground as appears from the reply.

7. In view of the aforesaid circumstance, we find that the application is devoid of any merit and is liable to be dismissed. Accordingly, the application is dismissed at the stage of admission in view of the aforesaid judgments delivered by the Hon'ble Apex Court.

8. No order is passed as to costs.


MEMBER(A)


MEMBER(J) 12/2000