

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH; CALCUTTA

OA No.861/1997

Calcutta this the 29th day of November, 2001.

Hon'ble Mr. Shanker Raju, Member (J)

Smt. Lichu Bala Mandal & Another

-Applicant

(By Advocate Shri A. Chakravorty)

-Versus-

Union of India & Others

-Respondents

(By Advocate Ms. U. Sanyal)

ORDER (ORAL)

Heard the parties. The applicant has sought compassionate appointment on the ground that the husband as well as father of applicant No.2 died on 24.1.87 and thereafter by an order dated 30.10.95 he has been regularised, which gives rise to the applicant to seek appointment on compassionate appointment. The learned counsel for the applicant by placing reliance on the Master Circular No.16 pertaining to compassionate appointment contended that the family is indigent and as per Circular No.120/83 appointment on compassionate ground relate to those appointments which can be made of dependants of Railway servant who loose their life in the course of duty or die in harness. In this view of the matter it is contended that the family is still indigent and under financial crises and the respondents arbitrarily without having regard to their own Circular rejected the case of the applicant without application of mind, as such the case needs reconsideration.

2. The respondents in their reply have stated that the applicant has made a belated request after five yers and as one of the sons is employed the family is not at all indigent. It is further contended that the family pension has already been accorded to the widow. In this view of the matter it is contended that the compassionate appointment cannot be claimed as a matter of right and as per the Circular No.120/83 the request should be made within five years from the date of the death of the

not fit for compassionate appointment the request has been rightly rejected, which is within the legal norms.

3. I have carefully considered the rival contentions of the parties and perused the material on record. Though the plea of the respondents regarding delay is not to be considered, as the applicant by an order passed in 1995 has been accorded regular status which ultimately bestowed the legal heirs to claim compassionate appointment. But, as the family has been accorded family pension and one of the sons has been working though on daily wages the family cannot be treated to be indigent. It is a settled principle of law that the appointment cannot be claimed as a vested right. One cannot avoid regular selection process to get direct entry into Government service. The foremost consideration for appointment against 5% vacancies as envisaged by the Government of India in the guidelines of 1994 as well as establishment circular No.120/83 is to relieve the family from financial crises. As the family after the death of the deceased has managed to survive for 14 long years, I do not find this a fit case to be accorded re-consideration for appointment on compassionate grounds. As the respondents have rightly considered the case of the applicant in accordance with their circular no fault can be found with their decision. In this view of the matter the present OA lacks merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)