

In the Central Administrative Tribunal
Calcutta Bench

OA No. 884 of 1997

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

Nipa Ghosh & Anr.

- VS -

Government of India Press

For the Applicant : Mr. A.K. Banerjee, Advocate
Mr. S. Chattopadhyay, Advocate

For the Respondents: Mr. B.K. Chatterjee, Advocate

Heard on : 26-7-99

Date of Judgement : 26-7-99

ORDER

Dispute in this case is regarding ^{the} appointment of the applicant No.2 on compassionate ground since father of the applicant No.2 died in harness in the year of 1991 while he was in service. According to the applicant, at the time of death of father of the applicant No.2 he was minor. When the applicant No.2 attained majority in the year of 1994, mother of the applicant No.2 applied for appointment of the applicant No.2 on compassionate ground. Thereafter, respondents after taking all requisite information from the applicant, suddenly rejected the prayer of appointment on compassionate ground vide letter dated 13.8.96 (Annexure E to the application). Feeling aggrieved by and dissatisfied with the said order dated 13.8.96 applicant approached this Tribunal by filing this application for direction upon the respondents to consider the case of the applicant for appointment on compassionate ground since the family of the applicant is still in distress.

2. Respondents denied the claim of the applicant stating, inter alia, that the family of the deceased employee does not suffer from any distress condition to maintain the family. It is stated by the respondents that request for appointment on compassionate ground had

made not been by the applicant No.1 who is widow of the deceased employee immediately after the death of her husband. That indicates that they have got substantial dependable income to maintain themselves without any employment assistance. It is also stated by the respondents that they have got a substantial amount of Rs.1,65,788/- on various accounts and monthly pension of Rs.1428/- is being received by the applicant No.1 per month. There are only two dependents - the widow and the son. The family also owns jointly a house. Thereby it shows that the family was not in distress condition. So, after due consideration they rejected the application disclosing the reasons stated therein vide letter 13.8.96 (Annexure 'E' to the application).

3. Id. Advocate Mr. Banerjee on behalf of the applicant contended that at the time of death of the deceased employee the applicant No.2, who is a son, was minor and applicant No.1 did not apply for appointment on compassionate ground since applicant No.2 was minor at that time. Respondents also assured the applicant No.1 that as soon as the applicant No.2 ^{attains} ~~attains~~ majority they would provide compassionate appointment in favour of the applicant No.2. Accordingly she applied for compassionate appointment of her son Shri Debasis Ghosh. So application should be allowed.

4. Id. Advocate Mr. Chatterjee on behalf of the respondents submits that appointment on compassionate ground is not an enforceable right and that can be granted in extreme cases where the family cannot maintain themselves without any financial assistance of employment due to premature death of the govt. employee. But in the instant case, admittedly the applicant No.1 did not apply for appointment on compassionate ground for herself for three years from the date of death of her husband. She applied after three years for compassionate appointment in favour of her son, applicant No.2 since the applicant No.2 attained the majority in the year of 1994. On enquiry it is found that applicant No.1 has got all retirement benefits on account of death of her husband and is getting family pension. So, applicant is not in distress condition. Thereby, scheme of the compassionate appointment is no longer operative.

5. I have considered the submissions of Ld. Advocates of both the parties. Dispute regarding compassionate appointment in view of various judgements of the Hon'ble Appex Court is no-longer res-integra. It is well-settled law as the Hon'ble Appex Court in a case of U.P. -Vs- Paresh Nath reported in 1988 SCC (I&S) 570 held that -

"The purpose of providing employment to a dependent of a govt. servant dying in harness in preference to anybody else is to mitigate the hardship caused to the family on account of unexpected death while still in service and such appointments are permissible on compassionate ground provided there are rules providing for such appointment. The purpose of the scheme is to provide immediate financial assistance to the family of the deceased govt. servant; none of the consideration can operate when the application is made after a long period of time".

6. It is found that a similar question has been considered by the Hon'ble Appex Court in a case of Jagdish Prasad -Vs- State of Bihar reported in 1996 (I&S) 303. In that case the Hon'ble Appex Court held that -

"Son although minor - 4 years at the time of death of his father is not entitled to get appointment on compassionate ground".

It is admitted fact that the lady did not apply for appointment immediately after the death of her husband. So scope for compassionate appointment in favour of her son till he attains the majority is no longer. In the meantime applicant No.1 has got all retirement benefits and is getting pension. That fact shows that the family is not in distress condition and they are somehow maintaining themselves with the financial assistance ^{for 3 years from the date of death} ~~being received by them~~. So, the family cannot be said to be still in distress condition. In view of the aforesaid circumstances, the scheme of compassionate appointment cannot be said to be in operative due to lapse of years and for the reasons stated above. I find that reason has been disclosed by the authority for non-consideration of the appointment of applicant No.2 stating that applicant Smt. Nipa Ghosh is not in distress condition.

In view of the aforesaid decisions of the Hon'ble Appex Court and ~~other~~ reasons stated above, I am of the view that the reasons disclosed by the authority cannot be said to be arbitrary or ~~devoid of reasons~~. Thereby, I do not find any reason to interfere with the order. Accordingly, application is dismissed awarding no costs.

1/2/2017
(D. Purkayastha
Member(J)