

In The Central Administrative Tribunal
Calcutta Bench

MA 561 of 2000
CA 745 of 1997

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

Smt. Niyati Bala Dey, wife of Late
Dinesh Chandra Dey, residing at 53/
A, Mahatma Gandhi Road, Calcutta-82.

... Applicant

- Versus -

- 1) Union of India, service through the
Secretary, Directorate of Printing,
Nirman Bhawan, New Delhi.
- 2) Director, Directorate of Printing,
Nirman Bhawan, New Delhi.
- 3) Assistant Director(A-III), Directorate
of Printing, Nirman Bhawan, New Delhi.
- 4) Deputy Director(Admn.), Directorate of
Printing, Nirman Bhawan, New Delhi.
- 5) Govt. of India Press (Forms UNIT),
service through the Manager, Santra-
gachhi, Howrah.
- 6) Manager, Govt. of India Press (Forms Unit),
Santragachhi, Howrah.
- 7) Assistant Manager(Admn.), Govt. of India
Press(Forms Unit), Santragachhi, HOWRAH.

... Respondents

For the Applicant : Ms. B. Banerjee, Counsel

For the Respondents: Mr. S.P. Kar, Counsel

Heard on : 12-12-2000

Date of Order : 12-12-2000

ORDER

Applicant Smt. Niyati Bala Dey, who is said to be the wife
of Late Dinesh Chandra Dey, filed this application for appointment on
compassionate ground in favour of her second son Sri Shankar Chandra
Dey on the ground that husband of the applicant died on 3.1.1992 while

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he was working as Assistant Binder NO.II at the Government of India Press, Santragachhi, Howrah. Her representation for appointment on compassionate ground has been rejected by the authority on 11-6-1996 (Annexure-E to the application) disclosing the reasons that (a) her first son is residing separately, therefore, he must be employed, (b) her second son being more than 26 years of age cannot be treated to be dependent on her and (c) she has received Rs.79,621/- as terminal benefit with family pension of Rs.545/- p.m. with allowance of whole of her life. According to the applicant, the reasons disclosed for denial of appointment on compassionate ground in favour of her second son is arbitrary, illegal and devoid of consideration of the judgement passed by the Tribunal (Bombay) reported in 1996 Vol.33 ATC 583 (G.B. Yerwa (Mrs.) and Another - Vs. - Union of India and Ors. The applicant also filed one amended application bearing No.NA 561 of 2000 in this O.A. for adding her second son as a party to the same.

2. Respondents denied the claim of the applicant by filing written reply. In their reply they stated that the amended application cannot be allowed at this stage. Moreover, the second son was not made a party in this case. Therefore, the application is bad for non-joinder of necessary party.

3. I find that the applicant applied for appointment on compassionate ground in favour of her second son Sri Shankar Chandra Dey since her eldest son is missing since 1993 and in support of that she produced the G.D. entry made bearing No.194 dated 4.12.1993. However, I find that Sri Shankar Chandra Dey is not a necessary party though he should be treated as proper party in this case. Since the applicant applied for appointment on compassionate ground in favour of her second son and that has been rejected by the authority on the ground mentioned therein, so I am to see whether the grounds disclosed by the respondents for rejection of the claim of the applicant for appointment on compassionate ground in favour of second son are sustainable or not. It is now well-settled law as per decision of the Supreme Court reported in 2000 SCC (I&S) 767 (Balbir Kaur - Vs. - Steel Authority of India) that the terminal benefit and pensionary benefit admissible to the

applicant on account of death of the employee cannot be treated as substitute for appointment on compassionate ground. Respondents disclosed one of the grounds that the applicant received the terminal and pensionary benefits from the Department. Therefore, she is unable to get appointment on compassionate ground. Since the Hon'ble Apex Court decided the question of law in this respect, therefore, I am of the view that the said reasons disclosed by the respondents is not sustainable in law. Moreover, I find that the Tribunal in a case of G.B. Yerwa (MRS.) and Another - Versus - Union of India and Ors. reported in 1996 Vol.33 ATC 583 had already decided that "due consideration must be given to widow's plea that the earning son was living separately and was not rendering any assistant to the family". So, in view of the two reasons I am of the view that the respondents should re-consider the matter of the applicant in accordance with the aforesaid judgement of the Hon'ble Apex Court reported in 2000 SCC (L&S) 767 (Balbir ~~Kaur~~ Vs. - Steel Authority of India) and the Tribunal mentioned above for the purpose of appointment on compassionate ground. The matter has been delayed for more than 8 years. Therefore, I direct the respondents to re-consider the matter of the applicant within two months from the date of communication of this order and they should consider the matter afresh in the light of the judgements mentioned above. With this observation, application is disposed of awarding no costs.


(D. Purkayastha)
Member (J)

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