

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA No.1179/97

Present : Hon'ble Mr.B.V. Rao, Member(J)  
Hon'ble Mr.A.R. Basu, Member(A)

Sambari Murmu and Another

-Vs-

- 1) Union of India service through the GM, S.E. Rly, Garden Reach, Calcutta-43
- 2) The Sr.Dvl. Personnel Officer, S.E. Rly, Kharagpur
- 3) The PWI, S.E. Rly, Kharagpur

For the applicants : Mr.A. Chakraborty, Counsel

For the respondents : Mr. Sarajit Sen, Counsel

Date of Order : 31.10.2006,

ORDER

Mr.B.V. Rao, JM

Smt. Sambari Murmu and another have filed this OA under Section 19 of A.T. Act, 1985 praying the following reliefs:


- a) Declaration that the letter No.SE/Enact/Meeting/LEO( C)/KGP dated Nil issued by the DPO is bad in law and the same should be quashed.
- b) Declaration that the applicants are entitled to get benefit of the judgement passed in OA 470 of 1993 (Annexure E)
- c) An order do issue directing the respondents to consider the case of the applicant No.2 for an appointment on compassionate ground.
- d) Liberty may be given to add the applicant No.2 in the Original Application under Rule 4(5)(a) of the CAT Procedure Rule.

2. The brief matrix of the case according to the applicants are that the husband of the applicant No.1 by name Late Konda Murmu initially appointed as a Gangman in 1967 under PWI, Kharagpur, S.E. Rly and after completion of 6 months continuous service he attained temporary status, but unfortunately he died on 9-12-85 while he was in service. The applicant No.2 is the son of the deceased employee. Before the death the husband of the applicant was not regularized in service. For that cause she had not been granted



pension in her favour. Being aggrieved by non-payment of family pension, she filed OA before this Bench for direction upon the respondents for grant of family pension and the same was heard on 8-10-91 and the respondents were directed by this Bench to calculate family pension and pay the arrears to the widow within 90 days from the date of communication of the order and also further directed to continue to pay the family pension to the applicant No.1 month by month and also the Hon'ble Tribunal hold that the husband of the applicant No.1 shall be deemed to have been regularized w.e.f. 19-12-85, i.e. the date of death of the deceased employee. Being aggrieved by the judgement dated 8-10-91 the respondents filed SLP before the Hon'ble Supreme Court of India which was ultimately dismissed in the year 1992. The applicants further submitted that the deceased employee was declared deemed to have been regularized w.e.f. the date of death. As such the son of the deceased employee, i.e. applicant No.2 is entitled to get an appointment on compassionate ground. The applicant No.1 made a representation before the General Manager, S.E. Rly, Calcutta and getting no reply from the authority concerned she made a complaint before the Asstt. Labour Commissioner requesting him to look into the matter. The Asstt. Labour Commissioner vide his letter dated 25-1-95 informed the applicants that the Dvl. Personnel Officer, S.E. Rly, Kharagpur submitted his view points in respect of the case and it was observed by him that as per establishment circular dated 31-12-86 her case for appointment of her son on compassionate ground cannot be considered. Hence the applicants approached this Tribunal to ventilate their grievances.

3. The respondents contested the matter by filing a reply stating that the compassionate appointment is not a vested right which can be exercised at any moment. The main object of compassionate appointment is to provide financial assistance to the deceased employee's family. Since the family has earned their livelihood for more than 15 years from the date of the death of employee it is evident that the family has some other source of income. The compassionate appointment can be given in case of extreme financial hardship caused due to unexpected death of the employee. Here no such situation is prevailing at present. That is why the applicant No.2 is not eligible for



compassionate appointment. In view of the facts and circumstances of the case the respondents submitted that the applicants are not entitled to claim any relief and the OA is liable to be dismissed with costs.

4. Heard both the parties.

5. The learned counsel for the applicants reiterated the above facts and he mainly stated before us that since the deceased employee's service was regularized w.e.f. the date of death and the applicant No.1 is getting the family pension, applicant No.2 is entitled for compassionate appointment.

6. Per contra the learned counsel for the respondents strongly opposed the submissions made by the learned counsel for the applicants. He contends that the issue of compassionate appointment is not a vested right of the applicants and they cannot claim it as a matter of right. He further submitted that in view of the observations and guidelines of the Hon'ble Apex Court the compassionate appointment will be given to those who are in extreme financial difficulties. He further contended that the main object of compassionate appointment is to provide financial assistance to the deceased family members caused due to unexpected death of the employee. He relied upon a decision in the case of Umesh Nagpal v. State of Haryana and Others wherein the Hon'ble Apex Court held that the compassionate appointment is not a vested right and it can be exercised at any moment. He also contended that the application is barred by limitation because of inordinate delay in filing the same and the same is also devoid of merit and misconceived. Hence he prayed to dismiss the OA with costs.

7. We have considered the submissions and arguments of both the parties and we have carefully gone through the pleadings and material on record.

8. After a perusal of record and pleadings we find that the respondents has not clarified how the applicant No.2 is not entitled for compassionate appointment and what are the financial assistance they are getting other than the family pension. It is also a fact that the applicant filed this OA in the year 1997 itself.

9. In the result for the foregoing reasons and discussions made, we are directing the respondents to consider the case of applicants treating this OA as a part of the

