

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1275/1997

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

SABITA MAJUMDAR & ANR.

VS.

UNION OF INDIA & ORS.

For the applicants : Ms. B. Ghosh Dutta, counsel

For the respondents : Mr. S.P. Kar, counsel

Heard on : 18.6.99

Order on : 18.6.99

ORDER

No. 1

In this O.A., the applicant/ Sabita Majumdar widow of late Banwarilal Majumdar and applicant No. 2, Subrata Majumdar son of ~~the~~ deceased Government employee have prayed for direction upon the respondents for consideration of the case of the applicant No. 2 for appointment on compassionate ground. It is stated in the application that the Government employee Banwarilal Majumdar died on 25.10.1983 in harness. Immediately after the death of the employee, his wife applicant No. 1 applied to the authorities for appointment on compassionate ground in her favour vide letter dated 18.2.84(Annexure 'B' to the app.). In response to such application, the respondents asked her to produce School Leaving Certificate to facilitate the processing of her case by their letter dated 17.7.7.84(Annexure 'C' to the app.). But the applicant could not produce the same and by a letter dated 20.8.84 she informed the authorities stating the reasons therein of (Annexure 'D' to the app.). Despite of submitting/several representations and personal request to the authorities, the respondents have not taken any action in this regard. Finding no other alternative, the applicant No. 1 again sent application to the Hon'ble Minister, Urban Development, Government of India

another representation to the Director, Directorate of Printing, Nirman Bhavan, 'B' Wing, New Delhi on 12.4.1989 requesting for appointment of applicant No.2 on compassionate ground. Thereafter, the applicant No.1 made two representations dated 28.6.93 and 5.12.94 with same prayer. But the respondents have not taken any action. Feeling aggrieved by and dissatisfied with the said inaction on the part of the respondents, the applicants approached before this Tribunal for getting appropriate relief.

2. Respondents filed written reply denying the claim of the applicants. It is admitted by the respondents in the reply that after considering the application of applicant No.1 for appointment on compassionate ground dated 23.4.84 the Directorate of Printing, New Delhi regretted the said application of the applicant. Thereafter the Directorate of Printing regretted another application of the applicant No.1 by which she requested to give compassionate appointment in favour of her son. Applicant No.1 made further representation on 24.2.94 and on 31.12.94 praying for same relief but all the representations were rejected vide O.M.No.26/14/95-A.III dated 18.1.1996. Stating the aforesaid facts in the reply the respondents stated that the instant application is barred by limitation since the application is filed after expiry of statutory period of limitation. So, the application should be dismissed.

3. Ld. counsel Mrs. B. Ghosh Dutta appearing on behalf of the applicants submits that no communication has been made by the respondents regarding rejection of the prayer of the applicants and the respondents did not disclose on which date and by which letter they rejected the representation(s) of the applicant as stated by the respondents. Since the respondents could not show any document in support of their statement, it should be presumed by the Tribunal that the

did not take action on the representations made by the applicant No.1. Ms. Ghosh Dutta further submits that the application cannot be said to be barred by limitation. It is also submitted by the ld. counsel for the applicant that the grievance of the applicant has not been considered by the competent authority.

4. Ld. counsel Mr. S.P. Kar appearing on behalf of the respondents submits that the representations of the applicant No.1 was duly considered by the competent authority and that has been communicated to the applicant vide letter dated 18.1.96. He further submits that the instant application has been filed by the applicant after/12 years from the date of death of the employee and thereby the scope of appointment of applicant No.2 is no longer in operation. So, the application is hopelessly barred by limitation and is liable to be dismissed.

5. I have considered the submissions made by the ld. counsel for both the parties and have gone through the records. I find that the respondents failed to show any document in support of their statement as made in the reply and they could not disclose the reason as to why the representation of the applicant was not considered for appointment on compassionate ground. The Hon'ble Supreme Court has decided the matter in a case of Sushama Gosain & Ors. Vs. Union of India & ors. reported in 1989, SCC(L&S)-662 which runs as follows :-

"In all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress."

Similar view was taken by the Hon'ble Apex Court in another case of Umesh Kumar Nagpal Vs. State of Haryana & Ors. reported in SCC, Vol.4, 1994-138 where it is held that :-

"The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis."

In a recent judgment of the Hon'ble Supreme Court reported in SCC(L&S), 1999(Basudeo Tiwari Vs. Sido Kanhu University & Ors.) it is held that :-

"Non arbitrariness is an essential facet of Article 14 pervading the entire realm of State action governed by Article 14. Natural justice in turn is an antithesis of arbitrariness. It therefore, follows that audi alteram partem which is facet of natural justice is a requirement of Article 14. In the sphere of public employment, it is well settled that any action taken by the employer against and employee must be fair, just and reasonable which are the components of fair treatment. The conferment of absolute power to terminate the services of an employee is an antithesis of fair just and reasonable treatment."

On the face of the abovementioned judgments of the Hon'ble Apex Court it is found that ~~reasons for~~ rejection of the representation of the applicant should be disclosed and communicated to the applicant for fairness. In the instant case ~~it~~ is not understood as to why the respondents failed to produce any record in support of their statement, before this Tribunal. In view of the above facts, I am of the view the respondents were not justified in denying the claim of the applicant regarding compassionate appointment. Since the representation of the applicant No.1 was not disposed of by the respondents, it would be proper on my part to direct the respondents to consider the case of the applicants afresh.

6. In view of the aforesaid circumstances, the respondents are directed to dispose of the representation of the applicants regarding compassionate appointment after making proper enquiry, within 2 months from the date of communication of this order and if ~~it~~ is found that the family of the deceased employee is still in distress, the case of compassionate appointment in favour of applicant No.2 should be considered by the respondents in the light of the aforesaid observations. Accordingly the application is disposed of awarding no costs.