

In the Central Administrative Tribunal
Calcutta Bench

OA No.1304 of 1997

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

Smt. Sucharini Roy & Anr. Applicants

- VS -

- 1) Union of India, through the General Manager, E.Rly., Calcutta.
- 2) Chief Personnel Officer, E.Rly., Calcutta.
- 3) Divisional Railway Manager, E.Rly., Malda, Division, Malda.
- 4) Divisional Railway Manager, E.Rly., Howrah Division, Howrah.

.... Respondents.

For the Applicant : Ms. K. Banerjee, Advocate

For the Respondents: Mr. C. Samaaddar, Advocate

Heard on : 18-11-98

Date of Judgement : 18.11.98

O R D E R

Smt. Sucharini Roy, ^{being} widow of deceased employee ^{late} Bijoy Roy and Shri Naba Roy being son of the deceased employee, filled this application for direction upon the respondents to consider the case of the applicant No.2 for appointment on compassionate ground since his father died in the year 1972 in harness while he was in service. According to the applicant, the govt. servant Shri Bijoy Roy died leaving two sons as legal heirs. According to the applicants, they are still in distress condition and unable to maintain the family without any financial assistance of employment under the compassionate appointment scheme. It is also stated by the applicants that at the time of death of the deceased employee, his two sons were minor. Applicant No.1 applied for appointment on compassionate grounds in favour of applicant No.2 but to no effect.

Contd.....

Ultimately, the applicants filed application on 22.12.96 (Annexure -A) to the General Manager seeking appointment in favour of her second son applicant No.2 on compassionate ground. But the General Manager did not take any action. Thereby, they approached this Tribunal.

2. Respondents denied the claim of the applicant by filing written reply stating, inter-alia, that late Bijoy Roy was employed in the Railway Service as a regular Gangsman who expired on 5-7-71 and applicants filed application for appointment on compassionate grounds after 25 years from the date of death of the deceased employee. Thereby, application is hopelessly barred by limitation. So, application should be dismissed.

3. Lt. Advocate Mr. Banerjee on behalf of the applicant has drawn my attention to the judgement dated 3.4.98 in OA 610 of 1996 (Smt. Sadhana Nandan -Vs- Union of India & Ors.) and submits that on the basis of the judgement applicant ^{, candidate} deserves to be considered by the General Manager since applicant filed representation to the General Manager to consider his representation dated 22.12.96 (Annexure -A to the application). Since representation was not considered, thereby respondents be directed to dispose of the case of the applicant in accordance with the rules. But Lt. Advocate Mr. Samaddar on behalf of the respondents raises objection to the prayer made by the Lt. Advocate Ms. Banerjee and he relied on a judgement reported in 1997 SC&SLJ 485 (Haryana State Electricity Board -Versus- Hakim Singh) where their Lordship held, "the object of the compassionate appointment is to tide over the crises on accounts of ultimately demise of sole earning member of the family and it is not a vested right which can be claimed at any time. High Court has no right in directing the Board to consider the claim which was made far ~~behind~~ the period indicated in the circular dated 1.10.86". So, application should be dismissed in the light of the judgement.

4. I have considered the submissions of Lt. Advocates of both the parties on that score and I find that the dispute regarding compassionate appointment is no longer res-integra. Besides the judgement referred to by Lt. Advocate Mr. Samaddar, I find that another judgement

has been passed by the Hon'ble Supreme Court in a case of Haryana State Electricity Board -Versus- Naresh Tanwar and Anr. reported in 1996 SCC(L&S) 816 where the Hon'ble Appex Court held that "compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment is an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the members of the family of the deceased employee. The very object of appointment of dependent of deceased employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years".

5. In this case it is admitted that the applicant No.2 attained majority in the year 1989. Even after attaining majority, they did not make any representation to the authority for appointment on compassionate ground. In view of the admitted facts, it is found that application has been filed by the applicant in the year 1996 after 25 years from the date of death of the deceased employee. So, in view of the aforesaid decision of the Hon'ble Appex Court, there is no doubt that the family has been managing somehow all the years of 25 years and that indicates that the family has some dependable means of subsistence after the death of the govt. employee. In view of the aforesaid circumstances, application is devoid of merit and thereby it is dismissed awarding no cost.

Manu singh
(D. Purkayastha)
Member (J)