

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.1398 of 1997

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

SUMATI PATRA & ANR.

VS.

UNION OF INDIA & ORS.

For the applicants : Mr. A. Chakraborty, counsel

For the respondents : Mr. P. Chatterjee, counsel

Heard on : 6.5.99

Order on : 6.5.99

ORDER

The applicants, namely, Smt. Sumati Patra widow of Late Jyoti Patra, Ex-Gangman under PWI/Kolaghat, Midnapur, S.E. Rly. and Trilochan Patra son of Late Jyoti Patra, have filed this application for appointment of applicant No.2, Trilochan Patra on compassionate ground. According to the applicants, Sri Jyoti Patra died on 23.11.76, but his widow was not granted relief of family pension on account of death of her husband. Therefore, the applicant No.1 wife of the deceased employee approached the Central Administrative Tribunal, Cuttack Bench by filing an application bearing No.O.A.166 of 1994 and that had been disposed of on 24.6.94 with the order that the husband of the applicant No.1 should be deemed to have been regularised in service w.e.f. the date of his death and the respondents were directed to release family pension in favour of the applicant No.1. Pursuant to the Court's order, the applicant No.1 was granted the same. Thereafter, the applicant No.1 applied to the authority concerned for giving appointment to her son on compassionate ground since her husband has been regularised in service as per the order of the Tribunal. But the respondents have not taken any action on the said representation. Hence the applicants approached this Tribunal for having direction upon the respondents to consider the case of the applicants for appointment on compassionate ground.

2. Respondents filed written statement denying the claim

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of the applicant. It is stated that the application is belated one and there is no scope for granting compassionate appointment under the scheme due to lapse of several years. It is also stated that the scheme of compassionate appointment started from 1979 in the railways and there is no provision to reopen the past cases for consideration and thereby after 22 years of the death of the railway employee, question of compassionate appointment does not arise.

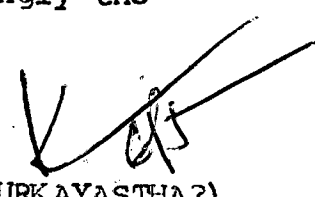
3. Ld. counsel Mr. A. Chakraborty appearing on behalf of the applicant, submits that since the deceased railway employee has been regularised in service as per the judgment of the Central Administrative Tribunal, Cuttack Bench in O.A.166 of 1994, applicant No.2, the son of the deceased employee has the right to apply for compassionate appointment under the scheme. Ld. counsel Mr. Chakraborty refers to the judgment dated 7th Oct., 1996 in O.A.470 of 1993 (Annexure 'C' to the app.) and submits that since the deceased employee was regularised in service after his death as per the order of the Cuttack Bench, therefore, circumstances for granting benefit of appointment on compassionate ground is still operative. So, the application should be allowed.

4. Ld. counsel Mr. P. Chatterjee appearing on behalf of the respondents submits that the application is belated one and after a lapse of 22 years the application cannot be entertained and the very objective of the scheme for compassionate appointment will be frustrated if such belated application is accepted by this Tribunal. Ld. counsel for the respondents also relied on the judgement dated 11.8.98 in O.A.No.333 of 1997 (Smt. Jamini Bala Bera Vs. Union of India & ors.) and it is submitted that the applicant has no case and thereby the application is liable to be dismissed.

5. I have considered the submissions made by the ld. counsel for both the parties. The scope for appointment on compassionate ground as enunciated by a catena of judgments of the Hon'ble Apex Court is now well settled. The Hon'ble Apex Court

repeatedly reiterated that the belated application for appointment on compassionate ground normally should not be accepted by the Tribunal. Recently the Hon'ble Supreme Court has well settled the matter in a judgment reported in SCC(L&S), 1998-570(State of U.P. and Others vs. Parasnath). It should be kept in mind that the concept of compassionate appointment is largely related to the need of immediate financial assistance to the family of the Government servant died in harness and the very fact that the family has been able to manage somehow all these years proves that the family has some dependable means of subsistence. In the instant case, the application has been filed after 22 years from the date of death of the railway employee and it is found that the widow of the deceased has been granted family pension as per the judgment of Central Administrative Tribunal, Cuttack Bench. After getting family pension the applicants approached the authority for giving compassionate appointment on the ground that the deceased employee was regularised in service.

6. In view of the aforesaid circumstances, I am of the view that the applicant is not entitled to get any relief after a lapse of 22 years. Thereby the application is devoid of merit and is liable to be dismissed. Accordingly the application is dismissed awarding no costs.

  
( D. PURKAYASTHA?)  
MEMBER(J)

s.m.