

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No.276 of 1997

Present: Hon<sup>ble</sup> Mr. D. Purkayastha, Judicial Member

1. Chhaya Rani Paul, Widow of Late  
Pagal Chandra Paul of Village  
Nabagram, P.O. Panch Pota, District  
24-Parganas

2. Jayanta Paul, S/O Late Pagal  
Chandra Paul of P.O. Panch Pota,  
Vill. Nabagram, Dist.24-Pargana(S)

..... Applicants

VS

1. Union of India service through the  
Secretary, Ministry of Mines, Government  
of India, Shastri Bhavan, New Delhi

2. The Director General, Geological  
Survey of India, 4, Chowringhee Lane,  
Calcutta-16,

3. The Director (Administration),  
Geological Survey of India, 4,  
Chowringhee Lane, Calcutta-16

4. The Administrative Officer, Office  
of the Director (Administration),  
Geological Survey of India, 4,  
Chowringhee Lane, Calcutta-16

..... Respondents

For the Applicants : Mr. T. Sarkar, counsel

For the Respondents: Mr. B. Mukherjee, counsel

Heard on 16.11.1998

: : Date of order: 16.11.1998

O R D E R

Heard the learned counsel, of both the parties. The main question for determination is whether the applicant No.2, being a son of the deceased Government servant late Pagal Chandra Paul of Village Nabagram, P.O.Panch Pota, Dist. South 24-Parganas, who died in harness on 23.5.92 leaving behind the following family members, viz., Smt. Chhaya Rani Paul, applicant No.1; Shri Parimal Chandra Paul, elder son; Shri Jayanta Paul, younger son and Smt. Krishna Raut, daughter, *is entitled to consideration for appointment or reinstatement* According to the applicants, the elder son, Shri Parimal Chandra Paul is employed in a private firm and he is living separately without rendering any financial

assistance to the family, for which the widow applied for appointment on compassionate ground for second son, Shri Jayanta Paul. The applicant No.1 also submitted a xerox copy of Court's affidavit stating that the elder son leaving separately and that he does <sup>did</sup> not given any financial support to the family <sup>or before</sup> after the death of his father. On the basis of the application of the applicant No.1, a committee was constituted consisting of four members for consideration of the appointment of the applicant No.2 and ~~others~~ <sup>another</sup> on compassionate ground. It is found that the said committee recommended the case of applicant No.2, Shri Jayanta Paul considering the fact ~~and~~ on compassionate ground subject to the approval of the Ministry since as per the instruction of the Government of India dated 30.6.87 prior approval of the Ministry is required. But it appears that the Ministry did not accede to the said recommendation made by the duly constituted committee without assigning any reason and that has been communicated to the applicant by the letter dated 30.1.94, (Annexure/E to the application). Being aggrieved <sup>&</sup> and dissatisfied with the said letter dated 30.1.94 the applicants have approached this Tribunal with the prayer that the case of applicant No.2 be considered for appointment on compassionate ground.

2. The respondents have filed a written statement rejecting the claim of the applicants. It is stated by the respondents that the application is barred by limitation and the applicants have no cause of action for appointment on compassionate ground and the respondents in para 12 of the reply have categorically admitted and stated that as per instruction of Ministry two enquiries were conducted, and on both the enquiries the Inquiry Officer was satisfied that the eldest son, Shri Parimal Chandra Paul is not keeping any connection and/or rendering any financial assistance to the family of late . Paul even after the death of Late Government servant. On the basis of the report and on the

recommendation of the compassionate appointment committee, which recommended the employment of applicant No.2 against (Min) Post on compassionate ground subject to approval of Ministry of Mines in accordance to dated 30.6.87, Ministry was requested to consider sympathetically the case and communicate the approval. But the Ministry vide letter dated 15.12.93 did not accede to the proposal for compassionate appointment of applicant No.2 without assigning any reason.

3. Mr. Sarkar, learned advocate for the applicants submits that the impugned order of rejection by the Ministry, as appears from the letter dated 10.1.94, Annexure/E to the O.A., is cryptic one and devoid of reason and thereby the order dated 10.1.94 is arbitrary and liable to be struck down. It is submitted by Mr. Sarkar that the duly constituted committee recommended the case of the applicant No.2 after being fully satisfied with the requirement under the scheme, but the Ministry did not assign any reason for rejection of the recommendation of the committee. Thereby the application should be allowed with a direction to grant relief to the applicants as prayed for. Mr. Mukherjee, learned counsel on behalf of the respondents submits that the application is barred by limitation and the grounds stated in the application are not sustainable since another brother of the applicant No.2 is admittedly in employment in private firm. So, the application should be dismissed.

4. I have considered the submissions of the learned advocates of both the parties and also gone through the records submitted before me. It remains undisputed in this case that a

*Sethi* committee was constituted for consideration of the case of the applicants and another person for the purpose of appointment on compassionate ground and <sup>94</sup> have considered the case of the applicant in a meeting held on 14.8.92 in the room of the Director of Administration. It is found that the said committee considered the pros and cons regarding appointment on

compassionate ground and after having been satisfied<sup>with</sup> the case on merit, they recommended the applicant No.2 against the post of Group "C" (Min.) on compassionate ground subject to approval of the Ministry since as per DOPT OM 14014/6/86-Estt(D) dated 30.6.87 prior approval of Ministry is required for appointment on compassionate ground. After receipt of the due recommendation from the duly constituted committee, the Ministry rejected the prayer of appointment on compassionate ground vide letter dated 10.1.94, Annexure/E to the application. It is true that the respondents have right to reject the recommendation, but at the same time it cannot be <sup>said</sup> ~~ignored~~ that when a duly constituted committee recommended the case of the applicant No.2, the Ministry ought to have assigned reason for the purpose of <sup>judicially</sup> ~~not~~ <sup>recommendation</sup> giving any appointment on compassionate ground. In the instant case the committee has assigned reason for recommendation, but the Ministry did not disclose the reason for which the case of the applicant was not found suitable for appointment as recommended by the duly constituted committee. In view of the aforesaid circumstances I am of the view that in the absence of any reason an order dated 10.1.94, Annexure/E to the application attracts Art. 14 of the Constitution and it appears on the face of the order that it is arbitrary and cryptic one. It is also found that the duly constituted committee has recommended the case of the applicant No.2 against the post of Group "C" (Ministry); thereby it indicates that the post was available on the date of recommendation of the case of the applicant No.2. So, in view of the aforesaid circumstances I am of the view that the application should be allowed.

5. Regarding the question of limitation, as raised by Mr. Mukherjee, learned advocate for the respondents, it is found that the application for appointment on compassionate ground was rejected on 10.1.94. Thereafter no steps have been taken by the applicants either in the Court of law or before the appropriate

authority for reviewing the order and it is seen that the applicants approached this Tribunal by filing the present application on 14.3.97 i.e., after three years from the date of rejection. It is also the case that the applicant No.1 after receipt of the order of rejection dated 10.1.94 has made a representation to the Secretary, Ministry of Mines on 12.12.95. But the Secretary did not dispose of the said representation till date. So, in view of the aforesaid, <sup>fact</sup> I find that the Secretary, Ministry of Mines did not dispose of the application till date. Mr. Mukherjee, learned advocate submits that the Secretary is not the appellate authority of the Ministry; thereby the representation is not sustainable in the eyes of law. I find no force in argument advanced by Mr. Mukherjee. As I have already held that the Ministry has disposed of the prayer of the applicants without assigning any reason; thereby the grievance has been ventilated in the representation dated 12.12.95, since they did not disclose the reason in the letter. It is an obligation on the part of the respondents to dispose of the matter with a speaking and reasoned order. In view of the aforesaid circumstances I find that since the application has not been disposed of with a reasoned order, thereby the question of limitation on the representation dated 12.12.95 is not sustainable.

6. In view of what has been stated above I direct the Secretary, Ministry of Mines, New Delhi to consider the case of the applicant No.2 in the light of the recommendation given by the Compassionate Appointment Committee and the discussions made above and to dispose of the representation dated 12.12.95 within a period of three months from the date of communication of this order. The application is disposed of accordingly awarding no costs.

  
(D. Purkayastha)  
MEMBER (J)

16.11.1998