

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.333 of 1997

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

1. SMT.JAMINI BALA BERA
W/o Late Netai Bera,
Ex-Gangman under PWI/
Uluberia, S.E.Railway,
residing at Vill.Dakshin
Katal, P.O.Panskura,
Dist. Midnapore.

2. SHRI MADAN BERA S/o ... Applicants
Late Netai Bera, residing
at address of Appl.No.1.

Vs. 1. Union of India through the
General Manager, S.E.Railway,
Garden Reach, Calcutta-43.
2. Sr.Divisional Personnel Officer,
S.E.Railway, Kharagpur.
3. The Permanent Way Inspector,
S.E.Railway, Uluberia, Howrah.

... Respondents

For the applicants : Mr.A.Chakraborty, counsel.

For the respondents: Mr.P.Chatterjee, counsel.

Heard on : 11.8.1998

Order on : 11.8.1998

ORDER

This is a second application filed by Smt.Jamini Bala Bera, claiming to be the widow of deceased Railway servant, Netai Bera, Ex-Gangman under PWI/Uluberia, S.E.Railway, for getting compassionate appointment on account of death of her husband who died in harness on 24.7.1980.

2. It is found that the applicant filed another application earlier to this application bearing no.O.A.428 of 1992 claiming family pension due to the death of her husband. The said application was allowed holding that the applicant's husband should be deemed to have been regularised for the purpose of granting family pension and it was further ordered that the

No.1

applicant is entitled to get family pension, according to rules, calculated in the light of the observations made in the judgment. The applicants have now claimed compassionate appointment in respect of applicant no.2 in this application.

3. The respondents have filed a reply to the O.A. denying the claim of the applicant. The stand taken by the respondents is that this application is a belated one and the applicants have filed an application for compassionate appointment of applicant no.2 after more than 15 years from the date of death of the Railway servant on 24.7.1980. It is stated that since applicant no.1 got family pension, hence the ground for getting compassionate appointment is no longer operative.

4. I have heard the submissions of the 1st.counsel for both the parties. It is the case of the applicants that the husband of applicant no.1 was deemed to have been regularised by the order of the Court which is dated 30.3.1993 in O.A.428 of 1992. By the said order Late Netai Bera was deemed to have been regularised in service and family pension was granted accordingly. 1st.counsel for the applicant, Mr.A.Chakraborty, submits that since the husband of applicant no.1, Late Netai Bera, was deemed to be regularised in service by the said judgment and order, thereby claim for compassionate appointment of applicant no.2 cannot be denied by the respondents on the ground of the application being belated. Hence, this application should be allowed.

5. Mr.P.Chatterjee, 1st.counsel for the respondents, has produced the records as also the order passed by the Divisional Railway Manager, Kharagpur, on 19.9.1995, which has been approved by the General Manager, S.E.Railway, also where it has been mentioned that the case of the applicants is almost 15 years old as the ex-employee expired on 24.7.1980. The Hon'ble Supreme Court in SLP No.10504 of 93 and SLP No.2385 of 94 held that compassionate appointment cannot be granted after a lapse of reasonable period. It has also clarified that the mere death of an employee does not

entitle his family to compassionate appointment and the authority concerned must consider that the object of compassionate appointment is in conformity with the penurious condition of the family of the deceased employee to tide over the sudden financial crisis and not to provide employment. Moreover the widow is getting a family pension and also 2 of her sons are employed. As such, according to their opinion, the case does not bear any merit.

6. The controversy regarding the grounds and object for appointment on compassionate ground are no longer res integra due to the order of the DRM, Kharagpur, S.E.Railway, dated 19.9.1995. I find that the decision taken by the authority on 19.9.1995 is in accordance with the settled principle laid down by the Supreme Court. It do not find any illegality in the aforesaid finding of the DRM, Kharagpur, S.E.Railway, in the order dated 19.9.1995.

7. In view of the circumstances, I do not find any reason to direct the respondents to consider the case of compassionate appointment of applicant no.2 in this case. Thereby, the application is found to be devoid of merit. Hence, it is rejected awarding no costs.

D. Purkayastha
(D. Purkayastha)
Judicial Member