

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.516 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

BHOLA PRASAD SHAW

VS.

UNION OF INDIA & OTHERS

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mrs. B. Ray, counsel

Heard on : 12.6.2000

Order on : 12.6.2000

O R D E R

D. Purkayastha, J.M.

In this application, the applicant, Bhola Prasad Shaw has prayed for direction upon the respondents to give him appointment on compassionate ground to the post of Compositor Grade-II or any other suitable post on account of death of his father, Laksmi Narayan Shaw who worked under the respondents in the post of Proof Pressman. According to the ^{case of the} applicant, his father died on 7th January, 1992 while working under the respondents and immediately thereafter, his mother who ~~is~~ the widow of the deceased Government employee, made representation to the authorities requesting for appointment of her son i.e. the present applicant on compassionate ground but the respondent authorities did not consider ~~their~~ case sympathetically. It is stated by the applicant that he passed Madhyamik Examination in the year 1981 and completed apprenticeship training in the year 1984 under the Apprenticeship Act, 1961 at Government of India Press(Pun. Unit), Santragachi, Howrah in the Trade of

Hand Compositor and obtained the National Apprenticeship Certificate. It is further stated by the applicant that by a letter dated 4th November, 1994 (Annexure 'C' of the O.A.) the respondent No.3, the Assistant Manager (Admn.) asked him to appear before the authorities for practical test for the post of Compositor Grade-II; accordingly he appeared but the result of that test has not been intimated to him. The applicant states that he and his widow mother wrote several letters to the authorities to intimate the result and to consider their case sympathetically for the purpose of appointment on compassionate ground. On receipt of such representations, the respondent No.3 by another letter dated 6th September, 1996 (Annexure 'F' to the O.A.) asked his mother to furnish the their copies of ration cards and to submit a declaration stating whether the applicant ^{is} engaged in any service, business, profession or not. Accordingly, the applicant submitted all the documents as asked for by the respondent authorities. The applicant's mother finally wrote a letter to the Director, Directorate of Printing, New Delhi to consider the case of the applicant for the purpose of compassionate appointment. But no action has been taken on that from the side of the respondents. Therefore, the applicant has come to this Tribunal by filing this O.A. for getting appropriate relief.

2. Respondents have resisted the claim of the applicant by filing written reply to the O.A. In para 11 of the reply it is stated by the respondents that the name of the applicant has been included in the list of deserving cases for compassionate appointment and the offer of appointment in the category of Lower Division Clerk will be issued at his turn on availability of vacancy in the grade under compassionate quota. In the written reply the respondents have admitted that some delay has occurred ^{in the matter} due to some official formalities. The respondents state that the enquiry report

regarding the circumstances of the family of the deceased Government servant has been received from the Collector, Howrah only on 30.6.97 vide Memo.No.1057-RM and thereby some delay has occurred in completion of official formalities. According to the respondents another reason for delay in the matter is due to the fact that at first the applicant was ~~tried~~ ^{trade test of} tested for suitability for the post of Compositor for which the applicant passed All India Apprenticeship Training and proposal was also sent to the Head of the Department, New Delhi being competent authority to decide the matter but due to change of Government policy and proposed modernisation of Government of India Press and the manpower being reduced on account of closure of some of the presses, the post of Compositor Grade-II cannot be agreed to as communicated by the competent authority, so, again after completing formal action, fresh proposal has been sent to the competent authority against the post of L.D.C. which has been considered. In short, the respondents have stated that compassionate appointment to the post of Compositor Gr.II for which the applicant was tested and interviewed cannot be given due to non-availability of such post in the department, but the applicant will be considered for the post of LD.C. on compassionate ground when his turn come.

3. We have heard the ld. counsel for both sides and have perused the records available with us. Ld. counsel, Mr. A. Chakraborty appearing on behalf of the applicant should be given the benefit of compassionate appointment in view of the judgment of the Hon'ble Apex Court reported in 1998 SCC(L&S) 1302(Director of Education(Secondary) & Another Vs. Pushpendra Kumar and Others) and submits that the applicant is ready to accept the lower post even Group 'D' post if suitable ^{higher} ~~higher~~ post is not available with the department. Ld. counsel Mrs. U. Sanyal appearing on behalf of the respondents, contends that unless vacancy arises in the posts under compassionate

appointment
/quota, it will be difficult for the department to give any appointment on compassionate ground.

4. We have considered the submissions made by the ld. counsel for both sides and have perused the judgment of the Hon'ble Apex Court as referred to by the ld. counsel for the applicant reported in 1998 SCC(L&S) 1302(Director of Education (Secondary) & another Vs. Pushpendra Kumar and Others) wherein the Hon'ble Apex Court has considered the similar facts and circumstances and directed the respondents to consider the case of the applicants for the purpose of compassionate appointment even for the lower post if the post for which selection test was held is not available. We have also perused the judgment of the Hon'ble Apex Court reported in (1989) 4 SCC 468(Sushama Gosain and Others Vs. Union of India & Others) wherein the applicants were given the benefit of compassionate appointment. In view of the aforesaid two judgments of the Hon'ble Apex Court, we find that the respondents should consider the case of the applicant in the light of the observations made in the aforesaid two judgments. Accordingly, the respondents are directed to consider the case of the applicant for the purpose of appointment on compassionate ground within two months from the date of communication of this order and to communicate their decision to the applicant within ~~the same period~~ ^{15 Days from the date of taking decision}. The applicant is directed to submit a declaration ^{to the authorities} stating that he is willing to accept lower category post if the post for which he has been trade tested, is not available with the department. With these observations, the application is disposed of awarding no cost.


12.6.2000
MEMBER(A)


MEMBER(J) 12/6/2000