

In the Central Administrative Tribunal
Calcutta Bench

OA No.542 of 1997

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

Tribeni Ghosh & Anr.

Vs.

Eastern Railway

For the Applicant : Mr. P.C. Das, Id. Advocate

For the Respondents: Mr. P.K. Arera, Id. Advocate

Heard on : 16-6-98

Date of Judgement : 16-6-98

ORDER

Smt. Tribeni Ghosh - applicant No.1 and Shri Pradip Kumar Ghosh - applicant No.2 being wife and son respectively of the govt. employee Krishna Kumar Ghosh who died on 25.6.96 after retirement from railway service on 31.3.96, applied for compassionate appointment of applicant No.2 Shri P.K. Ghosh on the ground that the deceased employee who was a goods driver, lost his right arm (upto shoulder) on duty within the premises of diesel shed on 10.8.89 and he was not fit for goods driver. So, he applied to the Chief Personnel Officer, Eastern Railway, Calcutta for constitution of medical board for consideration of his case as a medically de categorisation. But respondents did not constitute any medical board as applied for by the deceased employee on 3.9.89 (Annexure 'B' to the application). After he retired from service on 31.3.96 he died on 25.6.96 and before his death applicant applied for appointment of the applicant No.2 for granting benefit of appointment on compassionate ground, but the respondents refused the said benefit. According to the applicant, due to non-consideration of his representation by the respondents, applicant approached the Tribunal

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relying on the judgement passed by Patna Bench of the Central Administrative Tribunal on 7.6.96 in OA No.117/94 (Annexure 'I' to the application).

2. The case is resisted by the respondents by filing a written statement denying the claim of the applicant stating, inter-alia, that the instant case is not maintainable in view of the facts that Shri K.K. Ghosh, Goods driver retired on superannuation on 31.3.90 and he died on 25.6.96 and he received the settlement dues as admissible in a normal retirement case and also getting pension as well. It is also stated in the reply that as per railway board circular No.E(NG)III/78/RCI/I dated 7.4.83 (Annexure 'R' to the reply) the compassionate appointment is permissible under certain contingency mentioned therein. Applicant is not entitled to get benefit of appointment on compassionate ground as the deceased employee retired from the service on superannuation. So, application should be dismissed.

3. Id. Advocate Mr. P.C. Das, appearing on behalf of the applicant, relied on a judgement of the Patna Bench in OA No.117/94 (Annexure 'I' to the application) and strenuously argued before me that the Hon'ble Bench of the CAT has granted similar benefit to the applicant Shri Jagdish Mahato since there is laches on the part of the department in the formation of medical board as applied for by the applicant's father in that case and the Tribunal directed the respondents to consider the case of the applicant for appointment on compassionate ground. So, applicant is entitled to get the similar benefit on that score, as the father of the applicant applied for medical board for declassification due to injury suffered by him while he was in service. So, there is no reason for denying such benefit to the applicant for appointment on compassionate ground. Id. Advocate Mr. Arora, appearing on behalf of the respondents, submits that employee having retired from the service ceased to be govt. servant and thereby he is not entitled to get any benefit of appointment on compassionate ground even after the retirement from service. Not only that applicant filed this application after

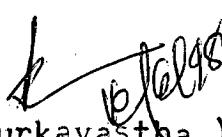
lapse of 6 years from the date of superannuation of the govt. employee concerned. So, application should be rejected, since it is devoid of merit.

4. I have considered the submissions of Lt. Advocates of both the parties as well as I have gone through the records and the judgement relied upon by the Lt. Advocate Mr. Das. On perusal of the judgement I find that the circumstances under which the Tribunal came to the conclusion for giving benefit to Shri Jagdish Mahato does not exist in this case. In the instant case, at my hand, I find that the applicant, ^{though} ~~though~~ applied for the constitution of medical board on 3.9.89 (Annexure 'B' to the application) ~~but~~ neither medical board was constituted nor was he medically declared unfit by the doctor and the applicant also did not approach this Tribunal for getting appropriate relief for ~~non-action~~ ^{non-action} on the part of the respondents for constitution of the medical board as applied for on 3.9.89 and it is found that after lapse of 6 years applicant's father did approach this Tribunal for getting appropriate relief. By series of judgement of the Hon'ble Appellate Court held that compassionate appointment cannot be granted after long lapse of reasonable period and the very purpose of compassionate appointment as an exception to the general rule of open recruitment. It is only to meet the immediate financial problems being faces by the family ^{due to sudden death of the earning member of the family} members. Hon'ble Appellate Court in a case of U.P. Vs. Paresh Nath 88 SCC(I&S) 570 held that "the purpose of providing employment to a dependent of a Govt. servant dying in harness in preference to anybody else is to mitigate the hardship caused to the family on account of unexpected death while ^{he} ~~still~~ in service and such appointments are permissible on compassionate ground provided there are rules providing for such appointment. The purpose of the scheme is to provide immediate financial assistance to the family of the deceased govt. servant; none of the consideration can operate when the application is made after a long period of time". I have considered the judgement of Hon'ble Appellate Court and now it is well settled that ^{the purpose of} appointment on compassionate

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ground is circumscribed and in view of the aforesaid judgement of the Appex Court ^{the} ~~as relief in this case~~ I am of the view that the applicant No.2 ceased to be a govt. servant after retirement on superannuation and that right cannot be enforced after the date of retirement of the applicant. Thereby, I find that application is devoid of merit and hence it is dismissed awarding no cost.


(D. Purkayastha)
Member(J)