

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 396 OF 2012

This, the 24th day of October, 2013.

HON'BLE SHRI NAVNEET KUMAR MEMBER (J)

Rajeev Kumar Nirmal, aged about 32 years, son of Late Om Prakash, Resident of Village: Mampur Bana, Post: Bakshi Ka Talab, District: Lucknow.

Applicant

By Advocate Sri A. K. Baledia.

VERSUS

1. Union of India, Ministry of Agriculture, Through the Secretary, Ministry of Agriculture, Government of India, New Delhi.
2. Director General, Agriculture, Indian Industries for Sugarcane Research, Krishi Bhawan, New Delhi.
3. Director, Indian Institute of Sugarcane Research, U.P. Raebareli Road, Lucknow.
4. Assistant Finance & Accounts Officer, Indian Institute of Sugarcane Research, Lucknow.

Respondents

By Advocate Sri Rajendra Singh.

(Reserved on 15.10.2013)

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- “(i) Direction to quash the impugned order dated 22.10.2007 and order dated 8.8.2006, 5.7.2012 and 31.7.2012 passed by the opp. Parties requiring the succession certificate for appointment of the applicant under dying in harness rules.
- (ii) Direction to the opposite parties to consider appointment of the petitioner on the basis of nominee in the service records of Late Om Prakash on suitable post under Dying in Harness Rules.
- (iii) Issue any other appropriate order or direction as this Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.
- (iv) Award cost of the claim petition in favour of the applicant.”



2. The brief facts of the case are that the applicant is the son of the deceased employee, who died on 31.1.2006 while he was in service leaving behind his grandfather, unmarried daughters and one physically handicapped daughter. Soon after, the death of the ex-employee, the applicant made an application on 6.2.2006 and its reminder dated 2.3.2006 for considering the case of the applicant for grant of compassionate appointment. When the said application was not decided, the applicant preferred O.A. No. 233 of 2007 and when the said O.A. was decided by the Tribunal on 10th August, 2007 whereby the Tribunal directed the respondents to consider and dispose of the applicant's application dated 2.2.2006 in accordance with rules within a period of 4 months from the date a certified copy of order is produced. When the applicant's application was not decided in pursuance of the direction of the Tribunal, the applicant submitted a representation to the Secretary, Ministry of Agriculture, Government of India and in pursuance thereof, it was intimated to the applicant that his application was earlier considered and rejected on 22.10.2007. As per the said order, the applicant was required to submit the succession certificate which he fail to do so. The learned counsel for the applicant has also pointed out that as per the order dated 7th November, 2009 which is contained in Annexure-8 to the O.A. It was intimated that the name of the applicant is mentioned in the list of nominations submitted by the ex-employee. As such, there is no requirement for the applicant to submit the succession certificate for considering his case for grant of compassionate appointment.

3. The learned counsel for the respondents has filed their preliminary objections and through preliminary objections it was pointed out by the respondents that the present O.A. is barred by limitation and the applicant has also failed to indicate any cogent



reason for condoning the delay. The learned counsel for the respondents has also filed the reply to the O.A. and through reply, it is pointed out by the respondents that the father of the applicant was working on the post of Tractor Cleaner in Indian Institute of Sugarcane Research, Lucknow and after the death, the applicant moved the application for grant on compassionate appointment. One Smt. Guddi Devi, who claims herself to be the second wife of the ex-employee also claims for grant of compassionate appointment as such, in the event of the rival dispute, the respondents asked Smt. Guddi Devi and the applicant to submit valid succession certificate from the Competent Authority for settlement of their claims. As regard, the information of the second marriage of the ex-employee is concerned, there is no material on record which may indicate that the father of the applicant married with Smt. Guddi Devi. Despite, both Smt. Guddi Devi as well as the applicant has even till date not filed any valid succession certificate.

4. Learned counsel for the applicant has also filed the reply to the objections filed by the respondents and through reply, it was pointed out on behalf of the applicant that the present O.A. is not barred by limitation as the order dated 22nd October, 2007 was communicated in 2012. As such, the present O.A. is not barred by limitation.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant is claimed to be the son of the deceased employee who expired on 31.1.2006. The bare perusal of the pleadings including the annexures shows that one Shri Shiv Lal has sought certain information from the respondents under RTI Act and in pursuance of the said information sought for, the



respondents have written a letter dated 7th November, 2009 wherein, it is categorically stated that as per the nominations submitted by Late Om Prakash i.e. applicant's father, Smt. Vidya Devi is shown as wife whereas, Km. Neelam Devi and Km. Manju Devi is shown as a daughter and the applicant is shown as a son. Apart from this, in the letter No. 7-91/07-Admn-1 dated 7th November, 2009, it is also mentioned that as per the record, the gratuity is required to be paid to Smt. Vidya Devi wife and Rajeev Kumar son and GPF to be paid to Smt. Ganga Devi mother and in case of death of the mother, the same may be paid to the son i.e. Rajeev Kumar. As regard second marriage of Late Om Prakash is concerned, the department is not aware of the same and even after the death of the ex-employee, the department has not paid family pension as well as the GPF till date. Apart from this, there appears to be dispute between one Smt. Guddi Devi alias Nirmala and the applicant and none of them could have file the valid succession certificate till date. Not only this, it is also pointed out by the learned counsel for the applicant that the Civil Suit No. 761 of 2011 is pending before the Civil Judge Sr. Divisional. However, the copy of the same has not available on record. As per the averment of the applicant in the O.A. Smt. Guddi Devi alias Nirmala claims to be the second wife of Late Om Prakash and the said marriage is challenged through the declaratory suit in which notices has been sent by the Civil Court, but no reply has been filed by Smt. Guddi Devi alias Nirmala. Not only this, Smt. Guddi Devi alias Nirmal has also filed an O.A. No. 405 of 2007 and in the said application, it was prayed that she may be given the compassionate appointment and also prayed for release of the retiral dues of the deceased husband late Shri OM Prakash. The Tribunal vide order dated 11.01.2008 directed the respondents to consider the claim of



applicant, if not already considered for compassionate appointment by passing a reasoned order. Since there is a dispute between the second wife and the applicant and it is not final that who is the successor of Late Om Prakash ex-employee and the Civil Suit is also pending as such, it would not be appropriate to adjudicate the present O.A. at this stage.

7. Accordingly, O.A. is disposed of with a direction to the parties to revive the O.A. after the decision of the Civil Suit No. 761 of 2011 pending before the Civil Judge, Sr. Div. In the mean time, the respondent may keep the entire retiral dues of the ex-employee in an interest bearing account so that the beneficiary may not be put to loss.

8. With the above observation, the O.A. is disposed of. No order as to costs.

Navneet Kumar
(Navneet Kumar)
Member (J)

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