

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 71 of 2006

[M.A.No.: 46 of 2006]

[Patna, this Wednesday, the 1st Day of February, 2006]

C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

.....
Most. Bhushni Devi,
W/o Late Pawan Lal Thakur

Vs.

Union of India & Ors.

Counsel for the applicant. :- Shri N.K.Singh.

Counsel for the respondents.:- Shri A.A.Khan, SC.

O R D E R [ORAL]

Justice P.K.Sinha, V.C.:- Heard the learned counsel for the applicant and learned counsel for the respondents on admission, and on condonation of delay.

2. Applicant is the widow of Late Pawan Lal Thakur who had died in harness in the year 1987 whose son had applied for his appointment on compassionate ground. Since the retiral dues were also not paid, the deceased employee having married twice, the son born to the second wife married during the life time of the first wife, OA 317/2003 was brought which was disposed of directing him to file representation which was to be considered by the respondents. It was at that time it was made known to the applicant that her brother-in-law was appointed on compassionate basis in the year 1986 itself. The applicant claims that her brother-in-law had obtained the

job fraudulently in connivance with the respondents as well he was not looking after him.

3. Admitted position is that after death of her husband the applicant for the first time, as is clear from Annexure-2, had filed an application dated 10.12.2001 for appointment of her son, Ajay Kumar Thakur, on compassionate ground.

4. The matter had been remitted back to the respondents for consideration afresh vide order in OA 317 of 2003 which was recorded without going into the merits of the case, and the speaking order was passed on 30.03.2004 vide Annexure-A/4. According to the speaking order, the same applicant after death of her husband had applied for compassionate appointment of Dip Narayan Thakur declaring him to be her brother-in-law [brother of the late husband] in the year 1989 itself who could have been so appointed as per Railway norms in vogue during that period, the brother-in-law being the near relative. Dip Narayan Thakur, therefore, was appointed as Box Porter on 13.01.1989. As per the speaking order, under Railway Board's Master Circular No.16 once a near relative was appointed on compassionate ground, no further appointment could be given to a son or daughter or the widow of the employee, on compassionate ground.

5. The learned counsel for applicant submitted that till that was made clear in the year 2004, after order was passed in OA 317 of 2003, the



applicant did not know that appointment had already been given to her brother-in-law.

6. Learned counsel submitted that the person so appointed used to obtain thumb impression of the applicant which he might have utilised.

7. It obviously appears to be a cock-and-bull story that though the brother of the applicant's husband who had been appointed on compassionate ground in the year 1989 itself the entire family was unaware of this fact. In any case, admittedly the application for appointment of Ajay Kumar Thakur was given in December, 2001 though father of Ajay Kumar Thakur is said to have died in the year 1987. The appointment is granted on such ground for a particular purpose which is to help the bereaved family to tide over the crisis on sudden loss of the earnings of the bread-winner for the family. If no need for compassionate appointment was felt by the applicant for almost about 14 years, then appointment on this ground if ordered to be given to Ajay Kumar Thakur would violate the very principles on which such an appointment can be offered, or ordered. If Ajay Kumar Thakur was minor at the time of death of his father, the date of birth has not been given. In any case the brother of the deceased since has been appointed in year 1989 itself, no further appointment can be given. Even if he is ignoring to maintain the applicant, for argument's sake as such a weak plea was also urged, an order for his removal, which has not even been prayed, and appointment of son of applicant cannot be ordered after such delay.



8. There does not appear to be any merit in this application which may prompt this Tribunal to condone the delay for which a separate application has been made .

9. This application, along with M.A. No.46 of 2005, is dismissed.



[P.K.Sinha]/VC

skj.