

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.432/2018

Ahmedabad, this the 30th day of August, 2018

Pragati D/o. Late Shri Pradeep Banvir,
Age 30 years
Yet to be appointed on compassionate ground
In the office of the respondents.
Residing at : 21, Shrinath Flat, Rambaugh Society
Laxmi Provision Store, Maninagar
Ahmedabad 380 008. Applicant

(By Advocate : Shri M.S.Trivedi)

VERSUS

1. Union of India, through
The General Manager,
Western Railways,
Churchgate, Mumbai – 440020.

2. The Divisional Railway Manager
O/o. DRM, Western Railway
Ahmedabad Division, Divisional Office
Nr. Chamunda Bridge, Asarwa,
Kalupur, Ahmedabad 380002..... Respondents

O R D E R – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Heard. Learned counsel Shri M.S.Trivedi, who appeared for applicant submitted that it is the second round of litigation, in first round, after considering the entirety this Tribunal directed the respondents to consider the case of the applicant afresh for appointment on compassionate ground and simultaneously directed the applicant to submit documents to the respondents within two weeks. Learned counsel, while pressing for issuance of notice, giving past history and explaining factual aspect invites our attention towards Order dated 08.3.2018 passed in OA No.346/2017, preferred on the same issue by the applicant earlier. While assailing Order dated 19.07.2018, communicated to applicant on 31.07.2018 (Annexure A-1 herein), learned counsel urged that it is fit case where notice may be issued.

2. Considered the submissions and perused the record. The record reflects that the applicant previously preferred OA No. 346/2017 for compassionate appointment and this Tribunal disposed off the OA with direction. The relevant direction is in para 4 of Order dated 08.03.2018 and for the sake of brevity, it is reproduced below :

“Considering the above stated factual matrix of the case as well as the submissions made by the learned counsel for both the parties, the interest of justice would be met, if the applicant is directed to furnish all the details with regard to her claim for appointment on compassionate ground within two weeks from today to the office of the respondent No.2, and on receipt of the same, the respondents are directed to consider it within eight weeks thereafter and take appropriate decision by a speaking order without influence of the earlier decision. It is further directed that in case, if the applicant is found eligible for appointment on compassionate ground, the respondents shall pass appropriate orders to that effect and if the applicant does not meet with the requirement or found ineligible for the appointment on compassionate ground, the respondents shall communicate their decision along with speaking order to the applicant within stipulated time of eight weeks. Ordered accordingly.”

3. Respondent, as is evident from above said Order dated 08.03.2018 passed in OA No.346/2018 was required to pass speaking order but when we have glance of Order dated 31.7.2018 (Annexure A-1) find that it cannot be said to be a speaking order. Providing “justifiable reasons with material to support the decision” is sine qua non of a speaking order which we do not find in the Order impugned. The relevant operative part of Order passed is reproduced verbatim below :

“..... In compliance to the Hon'ble CAT-ADI's orders dated 08.03.18 passed in OA No.346/2017 file by Ms. PRagati daughter of late Pradeed Banvir, Ex. CHRI, SM/ADI the

applicant has been requested to submit the document, if any for processing the necessary case further. The same has been submitted by the applicant on considering these documents, the case of applicant has been examined in detail again.

The fact of the case are as under :-

On account of death of her husband on 6/1/2014, Smt. Artiben w/o. L/Pradipbhai Banveer had submitted claim on 19.3.14 for providing compassionate appointment to her divorcee daughter Ms. Pragati. On basis of documents provided the case was processed and after investigating claim alongwith supporting document it was established that there wasn't any proof regarding dependency of her on the ex-employee at the time of the death of the employee, which is a pre-requite condition for considering appointment on compassionate grounds. Therefore, the case was not considered and regretted twice on the same grounds.

Although she got divorced before death of the ex-employee (6/1/2014) but the name of divorcee daughter Smt. Pragati was neither included in the declaration for Pass/PTO by the deceased employee during his life time, nor any document was submitted which could prove dependency of Ms. Pragati on her deceased father.

Considering the all aspects and in absence of proof of dependency, claim of CGA of Ms. Pragati cannot be considered as per rules.”

4. Neither the Order speaks about details of documents supplied by the applicant nor it disclose as to what was the materials before the Authority passing the Order on the basis of which said Authority arrived on conclusion that there was no any proof regarding

dependency of applicant on the ex-employee at the time of death of employee.

5. In view of totality, it deem appropriate that this OA may be disposed off at the stage of notice itself with direction to the respondents to pass afresh the order dealing the prayer of applicant of compassionate appointment on merits discussing details of the materials supplied by the applicant, details of the materials collected by the respondents and his conclusion arrived at with reasons thereof.

6. In result, the above said impugned Order dated 19.7.2018, communicated to the applicant on 31.7.2018, is quashed and Respondents are directed to pass speaking order afresh within a period of two months, with effect from the date of receipt of copy of this order.

7. The OA stands disposed off with above direction. No costs.

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)

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