

CENTRAL ADMINISTRATIVE TRIBUNAL
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No.O A /350/668/2015

Date of order: 08.01.2018

Coram : Hon'ble Mrs. Manjula Das, Judicial Member

Buddhadev Mondal, Son of Late Kartick
Chandra Mondal, Ex- Attender at Central Sericulture
Research and Training Institute, Berhampore, under
Central Silk Board, aged about 31 years, residing at
Village- Netaji Nagar, Post Office – Chaltia, Police Station
– Berhampore, District- Murshidabad, PIN-742165(West
Bengal).

.....Applicant

-Versus-

1. Union of India, service through the Chief Executive Officer and Member Secretary, Central Silk Board, Ministry of Textiles, Government of India, Office at CSB Complex, BTM Layout Madivala, Bangalore, Karnataka-560608;
2. The Deputy Director (A&A), Central Silk Board, Ministry of Textiles, Government of India, Office at CSB Complex, BTM Layout Madivala, Bangalore, Karnataka-560608;
3. The Director (I/C), Central Sericultural Research and Training Institute, Berhampore, under Central Silk Board, Office at Berhampore, Post office and Police Station - Berhampore, District- Murshidabad, PIN-742101, West Bengal;
4. The Deputy Director (A&A), Central Sericultural Research and Training Institute, Berhampore; under Central Silk Board, Office at Berhampore, Post office and Police Station-Berhampore, District- Murshidabad, PIN-742101, West Bengal;
5. The Section -C, Silkworm Pathology Section, Central Sericultural Research and Training Institute, Berhampore, under Central Silk Board, Office at Berhampore, Post office and Police Station - Berhampore, District- Murshidabad, PIN-742101, West Bengal.

.....Respondents



For the applicant : Mr. Golam Mohiuddin, counsel

For the respondents : Mr. A K Basu, counsel
Mr. S. Bose, counsel

O R D E R

Manjula Das, Judicial Member

By this O.A. the applicant has challenged the impugned order dated 10.01.2013 (Annexure A/12) issued by the respondent No.2 whereby prayer of the applicant for appointment on compassionate ground has been rejected. The applicant has also prayed for a direction upon the respondents authorities to provide him employment on compassionate ground in place of his father who retired voluntarily on medical grounds before his actual date of retirement.

2. Heard Id. counsel for both sides and perused the pleadings and materials placed on record.

3. The facts of this case as narrated by the Id. counsel for the applicant are that the father of the applicant who was working under the respondents as Attender was suffering from Cerebro Vascular Accident (CVA) and he submitted an application for voluntary retirement on medical ground on 16.08.2010 which was duly accepted by the competent authority and he was informed by the respondent No.3 that his request for voluntary retirement had been accepted by the competent authority and he would be relieved of his duties on 16.11.2010.

Id. counsel for the applicant submitted that consequent upon acceptance of the prayer of the father of the applicant for voluntary retirement, the respondent No. 4 informed the father of the applicant on 25.10.2010 to submit the requisite proforma (duly filled up) for pensionary benefits to the authorities in duplicate. It is further submitted by Id. counsel for the applicant that on 12.11.2010 the father of the applicant made a representation to the respondent



No.3 for compassionate appointment of his son i.e. the applicant on the ground of his voluntary retirement. However, the applicant's father was relieved from his duties on 16.11.2010 consequent upon acceptance of his voluntary retirement by the competent authorities.

It is submitted by Id. counsel for the applicant that on 09.12.2010 the father of the applicant further made an application to the respondent No.1 praying for compassionate appointment in favour of the applicant followed by representations dated 14.01.2011 and 04.02.2011. Thereafter, the father of the applicant died on 06.03.2011 at District Hospital, Berhampore, Murshidabad after suffering from prolonged illness. However, the respondent No.2 rejected the prayer of the applicant's father for compassionate appointment of the applicant vide impugned order dated 10.01.2013(Annexure A/12) which is under challenge in this O. A.

4: The official respondents have filed a written reply statement refuting the claim of the applicant. The respondent authorities submitted that the request of the applicant's father for compassionate appointment of his son (the applicant herein) was duly examined by the authorities as per rules and it was found that he was not eligible for compassionate appointment in terms of the scheme for making compassionate appointment in Government Departments.

According to the respondents, the object of the compassionate appointment is to give appointment on compassionate ground to a dependent family member of a Government servant who died in harness leaving his family in penury and without any means of livelihood and who has retired from service on medical ground etc. and such appointments are made to relieve the family of

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the Government servant concerned from financial destitution and help them to get over the emergency.

The respondents have further stated that if a Govt. servant who dies while in service or retires on medical grounds under Rule 2 of the CCS(Medical Examination) Rules, 1957 or under Rule 38 of CCS(Pension) Rules, 1972 or the corresponding provisions in the Central Civil Service Regulations before attaining the age of 55 years(57 years in case of Group-D Government Servants), one of his dependent family members can apply for compassionate appointment subject to the terms and conditions of the scheme for compassionate appointment. Rule 38 of CCS (Pension) Rules provides for grant of invalid pension only if a Govt. servant retires from service on account of any bodily or mental infirmity which permanently incapacitates him for further service and for this purpose the concerned Government servant is required to submit a medical certificate from a recognized Medical Board.

The respondents have also stated that the father of the applicant neither died while in service nor he retired on medical grounds under Rule 38 of the CCS(Pension) Rules 1972 (the corresponding provisions under Rule 2 of the CCS(Medical Examination) Rules, 1957). They have further stated that the father of the applicant never requested for medical examination by the Medical Board or for grant of invalid pension under Rule 38 of the Pension Rules or under CCS (Medical Examination) Rules. According to the respondents, the father of the applicant took voluntary retirement under Sections 48 and 48A of CCS (Pension) Rules being a Group C Employee, therefore, the prayer of the applicant for compassionate appointment could not be accepted by the authorities as per rules.



5. The applicant has also filed a rejoinder to the reply of the respondents wherein he has reiterated the grounds stated in the O.A. According to the applicant, his father suffered from Cerebro Vascular Accident(CVA) for a long period; was granted medical leave and earned leave by the respondent authorities from June, 2010 to August, 2010; ultimately he submitted his application for voluntary retirement on medical grounds on 16.08.2010 which was duly considered and accepted by the respondent authorities by Memo dated 28.09.2010 and the applicant's father was allowed to retire voluntarily on and from 16.11.2010. In the rejoinder the applicant has taken the plea that since the respondent authorities granted voluntary retirement to the father of the applicant due to his being medically incapacitated, after considering his application for voluntary retirement, it cannot be said that his retirement was not on medical grounds. According to the applicant, his case should come under the provisions of Rule 38 of CCS(Pension)Rules, 1972 or under CCS(Medical Examination) Rules and he is legally entitled to get appointment on compassionate ground.

6. I have considered the submissions made by Id. counsel for both sides. It is very clear that the applicant's father voluntarily retired from service w.e.f. 16.11.2010 for being medically incapacitated. If further appears that though the applicant's father retired voluntarily on medical grounds he did not make any request for his voluntary retirement under Rule 38 of CCS(Pension) Rules or Rule 2 of CCS(Medical Examination) Rules. Rule 38 provides for invalid pension if a Government servant retires from service on account of any bodily or mental infirmity which permanently incapacitates him from further service and for this purpose he is required to submit a medical certificate from the competent

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authority (as mentioned under the rules) with regard to his incapacity for further service. Had the father of the applicant been retired under the provisions of such rules, the case of the applicant would have been a fit case for consideration of compassionate appointment on medical grounds. But in the instant case, the father of the applicant retired voluntarily under the provisions of Rule 48 & 48A of the Pension Rules which provides for voluntary retirement after completion of 30 and 20 years of qualifying service respectively. The father of the applicant neither submitted any medical certificate from the competent authority certifying him not fit for further service nor he was granted invalid pension for being permanently incapacitated for further service on account of any bodily or mental infirmity as provided under Rule 38 of CCS(Pension) Rules. Moreover, the applicant was not directed to undergo a medical examination by the authorities concerned and had not been issued any certificate to the effect that he was physically or mentally disabled which interfered with efficient discharge of his duties as required under Rule 2 of the CCS(Medical Examination) Rules, 1957. Therefore, the applicant's case does not come under the purview of the Scheme for compassionate appointment on medical grounds.

7. In view of the foregoing reasons, the O.A. is dismissed being devoid of any merit. No order as to cost.



(MANJULA DAS)
Judicial Member

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