

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/742/2016

Date of order : 16.2.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member

CHUMAI ORAON

W/o Late Lala Oraon,
JYOTISH ORAON
S/o Late Lala Oraon,
Ex Gangman, Sansi,
Under Sr. Section Engineer
PWA/Station Manager,
R/o Vill. Tingharia,
PO - Kasimpur,
Dist. - Malda,
West Bengal - 732139.

...APPLICANT

VERSUS

1. Union of India, through
General Manager,
North East Frontier Railway,
Maligaon, Guwahati,
Assam,
Pin - 781011.
2. The Chief Personnel Officer,
North East Frontier Railway,
Maligaon, Guwahati,
Assam,
Pin - 781011.
3. The Divisional Railway Manager (P)
North East Frontier Railway,
Katihar Division,
Katihar, Bihar,
Pin - 854105.
4. The Sr. Divisional Personnel Officer,
Katihar Division,
Katihar, Bihar,
Pin - 854105.

RESPONDENTS.

For the applicant : Mr.N.Roy, counsel

For the respondents: Mr.B.P.Manna, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member

Mr.N.Roy, Id. Counsel appeared for the applicants and Mr.B.P.Manna, Id.

Counsel appeared for the respondents.

2. By making this OA the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) to issue direction upon the respondent to give compassionate appointment to the applicant No.2 forthwith;
- b) to issue further direction upon the respondent to enquiry into the matter of the applicant No.2 if the educational qualification of applicant No.2 is Madhyamik, then the applicant case may be considered for appointment on compassionate ground;
- c) to issue further direction upon the respondent to quash and/or cancel and/or set aside the impugned order dt. 1.6.2015 issued by the Sr. DPO forthwith;
- d) to issue further direction upon the respondent to enquiry into the matter of the applicant No.2 for his educational qualification which is required for appointment on compassionate ground forthwith;
- e) to produce connected departmental record at the time of hearing;
- f) any other order or orders as the learned Tribunal deem fit and proper;
- g) leave may be granted to file this joint application under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

3. On perusal of the OA and the reply filed by the respondents, it is found that the deceased employee Lala Oraon died in harness on 24.5.1999 leaving behind the applicant No.1 as wife and three sons. Third son of the deceased employee made an application on 30.1.2000 for compassionate appointment in favour of him. Applicant No.1 also made an application dated 9.8.2000 praying for compassionate appointment for her third son. On the basis of the application the respondents deputed a Welfare Inspector to enquire into the essential particulars as submitted by the family of the deceased employee. The third son of the deceased employee was called to appear before the screening committee on 7.2.2002 to assign the category of Gr. D post but the screening committee rejected the case on the ground that he failed to read and write even a single sentence and as per Recruitment Rules he was not fit for appointment on compassionate ground. The decision was communicated to the applicants on 20.3.2002 and the applicants did not challenge the same.

The applicant No.1 again applied for compassionate appointment of her second son Jyotish Oraon on 4.8.2003, annexing a Class X failed certificate which fact was concealed during the enquiry made by the respondents on 8.9.2000 when it was said that the second son was having no educational qualification. On finding contradictory facts the case was regretted by the



respondent authorities. By an order dated 27.1.2006/1.2.2006 the applicant No.1 was asked if she desires employment on compassionate ground for herself, but she never applied for the same.

4. The applicants have approached this Tribunal with a prayer for compassionate appointment. From the records it is noted that the deceased employee expired on 24.5.1999. The scheme for compassionate appointment is to help the family of the deceased employee to tide over the sudden crisis which occurred due to untimely death of the breadwinner, which in the present case, by now is over as assumed. The applicant seems to have slept over the matter for long.

5. In **Umesh Kr. Nagpal -vs- State of Haryana [(1994) 4 SCC 138]** it has been held by the Hon'ble Apex Court as hereunder (with supplied emphasis) :

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet, the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."

The Hon'ble Court also held,

"Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

The Hon'ble Apex Court in the case of **Eastern Coalfields Ltd. -vs- Anil Badyakar [2009 (3) SLJ 205]** has held that compassionate appointment is not a vested right which can be exercised at any time in future.



In the case of ***State of Manipur -vs- Md. Rajaodin [2004 (1) SLJ 247]*** the Hon'ble Apex Court has held that compassionate appointment cannot be claimed or offered after a lapse of time when the crisis is over.

6. In view of the foregoing discussions, I hereby hold that the application is fit to be dismissed and accordingly MA stands dismissed. Consequently OA is dismissed. No order as to costs.

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V

(MANJULA DAS)

JUDICIAL MEMBER

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