

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**LIBRARY**

No. OA 350/00761/2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

SUMITRA RAM @ DEVI & ANR.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.B.Chatterjee, counsel

For the respondents : Mr.S.K.Das, counsel

Order on : 23.5.16

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. This is the second journey of the applicant to this Triubnl assailing a speaking order dt. 3.2.16. The facts of the case lie in a narrow compass :

The husband of the applicant No.1 and the father of the applicant No.2, namely Dina Ram, while serving as Electrical Fitter, died in harness on 21.6.90 survived by his widow Sumitra Ram, two sons and one daughter. The prayer for compassionate appointment for elder son when rejected, the applicant No.1 i.e. the widow applied for consideration of her youngest son Ramesh Kumar who passed Class VIII in the year 1994, since the family was virtually reeling under penurious circumstances since the death of the employee. The applicants were constrained to file an Original Application being OA 149/15 as no action was taken upon the representation.

Pursuant to the directions in the OA the respondents issued the speaking order dt. 3.2.16 whereby the Workshop personnel Officer speaking for the Chief Works Manager indicated that the employment assistance sought for in favour of Bulbul Kumar, the first son of the deceased employee was regretted

due to submission of fake school leaving certificate, the decision was communicated on 28.12.09. In terms of CPO, E. Railway circular dated 27.3.09 request for second son, Ramesh Kumar ~~or~~ a second chance could not be given once a fake certificate was submitted earlier. Further, the date of birth of Ramesh Kumar Ram was 26.12.76. He was the second son of the deceased employee. The representation of 2012 preferred after a lapse of 2 ½ years from the date of rejection of the case of Bulbul Kumar and almost after a lapse of 21 years from the date of death and 17 years after the date of attainment of majority by Ramesh Kumar Ram, was considered as time barred. Therefore the authorities found no justification to entertain a time barred application filed almost after 21 years of the date of death of the deceased employee for consideration in favour of second son.

3 In regard to the issue whether the authorities could prevent one child from being considered on the ground that another child had submitted fake certificate, Id. Counsel placed a judgment rendered by Hon'ble High Court at Calcutta in **WPCT 249/13 in Sushila Bauri & Anr. -vs- UOI & Ors.** where the Hon'ble High Court was of the following opinion :

"The respondent authorities herein sought to punish the other members of the deceased family including the petitioner No.2 by refusing to grant employment on compassionate ground to the said petitioner No.2 upon considering the conduct of the elder brother of the petitioner No.2 herein. This is a misplaced punishment on an unerring person for the wrong committed by somebody else in which he had no role to play.

For the aforementioned reasons, we do not approve the decision of the Senior Divisional Personnel Officer, South Eastern Railway dated 13th June, 2012 and quash the same accordingly.

For the identical reasons, the impugned order passed by the learned Tribunal also cannot be affirmed and the same is set aside.

The respondent authorities, particularly the respondent No. 4 and 5 herein, are directed to take immediate appropriate decision with regard to the claim for re-employment of the petitioner No.2 herein on compassionate ground without any further delay but positively within a period of three weeks from the date of communication of this order without being influenced by the earlier decision of the Senior Divisional Personnel, Officer, South Eastern Railway in respect of the elder brother of the petitioner No.2."

4. In regard to the belated claim, since the speaking order was issued on 4.2.16 pursuant to the directions of this Tribunal issued on 2.12.15 to consider the matter on merits as per Railway Board's circular, the application could not be thrown away on the ground of delay.

5. Accordingly the present OA is disposed of with a direction upon the authorities to consider the matter afresh in terms of the decision supra and pass orders wholly on the basis of financial condition of the family untrammelled by their earlier consideration and pass orders in accordance with law within three months from the date of receipt of the copy of this order.

6. No order is passed as to costs.

10. - Mayee
(BIDISHA BANERJEE)
MEMBER (J)

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