

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.O.A.350/01251/2015

Date of order : 09.02.2017

Present : Hon'ble Mrs. Jasmine Ahmed, Judicial Member

1. Lutphon Bibi
 2. Amit Shaikh
-Applicants

Vs.

1. Union of India, Service through the
General Manager, Eastern Railway,
17, Netaji Subhas Road,
Kolkata – 700 001;
 2. General Manager, Eastern Railway,
17, Netaji Subhas Road, Kolkata-700 001;
 3. The Divisional Railway Manager,
Eastern Railway, Sealdah Division,
Sealdah, Kolkata-700 014;
 4. The Chief Personnel Officer, Eastern Railway,
Kolkata, 17, Netaji Subhas Road,
Kolkata-700 001;
 5. Chief Works Manager, Eastern Railway,
Kanchrapara Workshop
P.O. Kanchrapara,
District: North 24 Parganas
-Respondents

For the applicant : Mr. I. N. Mitra, counsel

For the respondents : Mr. A.K. Banerjee, counsel

ORDER(ORAL)

On 06.02.2017 a categorical direction was given by this Tribunal to the respondents to verify the certificate of Faroque Shaikh from the school which issued such certificate and also to seek instruction from the respondent authorities whether there is any circular to the effect that for offer of

compassionate appointment educational qualification of Class VIII pass has to be from a recognised school.

2. Both these queries were framed in order dated 06.02.2017 and the counsel for the respondents very fairly has handed over the documents(three pages) in regard to the queries framed on 06.02.2017. From the documents placed by the Id. counsel for the respondents it is seen that the Headmaster of Saligram Madrasah Shiksha Kendra had certified categorically that all the certificates issued by the school are genuine and Faroque Shaikh was a bonafide student of the school. He has also admitted that when the certificate was issued in the year 1994, the school was not recognised and the school has got recognition in the year 2008. Counsel for the respondents also handed over a copy wherein it is found that the educational qualification of Class VIII pass for grant of compassionate appointment does not require certificate from a recognised school. Hence, a query put by this court on 06.02.2017 has been clarified by the counsel for the respondents and it is found that the case of Faroque Sk inadvertently has not been considered by the respondents.

3. This is a case wherein after the sudden demise of the railway employee, the applicant No.1 was having the responsibility of seven children (4 sons and 3 unmarried daughters) and at that point of time she applied for compassionate appointment for Faroque Shaikh, her second son and submitted a Transfer Certificate of Class-VIII pass issued by the Saligram Junior High Madrasah, Saligram, Nadia dated 05.05.1994. In that certificate before the name of the father of Faroque Shaikh inadvertently the word 'Late' was printed. Seeing that a duplicate certificate was again issued by the school authority on 25.05.1994 where such mistake was corrected and in the said certificate the word 'Late' was



not printed. However, the respondents while rejecting the claim of the applicant's second son Faroque Shaikh for grant of compassionate appointment detected the word 'Late' and found the certificate to be not true and also opined that the certificate was not issued by a recognised school and on that ground the candidature of Faroque Shaikh for appointment on compassionate ground was cancelled vide order dated 10.05.2002. After that the youngest son of applicant No.1, Amit Shaikh passed Class-XII from Santipur Hindu High School under West Bengal Council of Higher Secondary Education in the year 2012 and the applicant No.1 again applied for compassionate appointment for her younger son, Amit Shaikh on 04.10.2012. The respondents again regretted the claim of compassionate appointment in favour of Amit Shaikh vide order dated 10.12.2013 on the plea that the certificate submitted by Faroque Shaikh was fake.

The contents of the letter is quoted below:-

"In reference to your representation dtd. 4.10.12 received through office of the Ministry of States of Railways. It is intimated that your appeal has been examined carefully.

On going through the file of papers, it is revealed that Late Sk. Dinu expired on 18.4.2000 while in service. Accordingly, Sri Faroque Shaikh, 2nd son has been nominated for compassionate appointment. While processing the case, the same was regretted on the ground that the party concerned had submitted the certificate in support of educational qualification was found not to be genuine and communicated vide this office letter F/Con/31/M(CI IV) 1706 dtd. 10.5.2002 (copy enclosed).

In regard to the compassionate appointment in favour your youngest son Sri Amit Shaikh, it is to inform you that as per policy as adopted by this Railway, if once a fake certificate submitted, no second chance will be given vide CPO/CCC's letter No. CPO/SC/SA/Pol/Pt.X (Corrsp.) dtd. 27.3.2009."

The aforesaid order has been challenged in this O.A.

4. Accordingly it is intended to see that how far the pleas taken by the respondents in their letter dated 10.12.2013 are valid. In that regard a direction



was given to the respondents on 06.02.2017 and it has been revealed that the certificate produced by Faroque Shaikh for compassionate appointment at that point of time was bonafide and genuine as certified by the Headmaster of the concerned school vide certificate dated 07.02.2017.

5. It is also seen that in letter dated 23.04.2010 as produced by the counsel for the respondents it has been stated that :-

"Regarding acceptance of Class-VIII passed certificate from an unrecognised school for the purpose of appointment on compassionate grounds in Gr. 'D' category CPO has desired that we may follow the para 2 of Board's letter No. E(NG)-II/2007/RR-1/40 dt. 26.11.2009(copy enclosed)."

In Para 2 of Board's letter No.E(NG)-II/2007/RR-1/40 dated 26.11.2009 it is categorically mentioned as follows :-

"2. As per practice, class 8th pass of unrecognized school is acceptable for employment purpose on the railways, provided genuiness of the educational qualification is established by the Railways, by verifying the existence of the said institution and an enquiry into the standard of the said institution."

6. Accordingly it has been proved beyond doubt that the certificate produced by the applicant's second son Faroque Shaikh was bonafide, genuine and for the purpose of grant of compassionate appointment it was not required that the certificate had to be issued from a recognised school. It was only to be seen whether there was existence of the school and to be verified whether the certificate was bonafidely issued by the school.

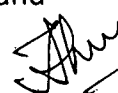
7. The counsel for the applicant vehemently contends that on the sudden demise of the sole bread-earner leaving behind seven children, the applicant No.1 for obvious reasons was passing hard days and continues to pass hard days.



8. Per contra, the counsel for the respondents states that when the applicant was having a genuine certificate, he should have approached the respondents immediately without waiting for the youngest son to be qualified for grant of compassionate appointment. He also states that the railway employee has expired on 18.04.2000. Hence, a long time has passed and therefore, there is no need for granting compassionate appointment.

9. Heard the rival contentions of the parties, perused the documents on record and also the certificates issued by the Headmaster of Saligram Madrasah Shiksha Kendra and the Railway Board's circular dated 26.11.2009 and 23.04.2010.

10. From the chronology of the events, it is clear that while rejecting the case of Faroque Shaikh the respondents have committed an error of not verifying the genuinity of the certificate from the concerned school. As the certificate issued by the school has been found to be genuine, undoubtedly a mistake was committed by the respondents by not granting compassionate appointment in favour of Faroque Shaikh who was eligible for grant of compassionate appointment in all aspects. Though almost 14 years have passed from the death of the railway employee, it is seen that in the year 2002 the rejection for grant of compassionate appointment was made by the respondents on the ground of certificate issued by an unrecognised school. It may happen that the widow was waiting for her younger son to be qualified from a recognised school and after the youngest son qualified from a recognised Board, she applied for compassionate appointment in favour of her youngest son, Amit Shaikh. Amit Shaikh has passed Class XII in the year 2012 and the applicant No.1 has applied in the year 2012 itself, and moreover before 2012 Amit Shaikh was a minor and



application could not have been made for grant of compassionate appointment in his favour.

11. Though the compassionate appointment scheme was evolved to help the family of the deceased employee to tide over the immediate financial crisis, every case is different and stands on its own footing on the basis of facts and circumstances. There are also various judgments of Hon'ble Apex Court and Hon'ble High Courts wherein it was observed that every case has to be dealt in its own merit. We have also come across the judgments of higher courts wherein it was ordered to grant compassionate appointment after a long considerable period of time taking into account the family circumstances and the liability left behind by the deceased employee who unfortunately died early leaving behind all his responsibilities to an illiterate widow. Hence, in the interest of justice as it is said justice is not to be done but also seen to be done in the facts and circumstances of the case, weighing the responsibility left behind by the deceased employee of seven children on an illiterate widow, I feel as the certificates are proved to be genuine, compassionate appointment should have been granted long back to the family, but due to misconception of the respondents the bereaved family has been deprived of their legitimate claim, and the applicants should not suffer for the wrong committed by the respondents.

12. Hence, the respondents are directed to consider the case of Amit Shaikh who is having all the requisite qualifications and eligibility for grant of compassionate appointment. The process of consideration of compassionate appointment be completed within a period of 3 months from the date of receipt of a certified copy of this order. The certificates handed over by Id. counsel for the respondents is being kept on record.



13. Accordingly the O.A. is disposed of. No cost.

(Jasmine Ahmed)
Judicial Member

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