

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. O.A.No.350/01319/2013

Date of order: 18.8.2016

Present: Hon'ble Mrs. Urmita Datta Sen, Judicial Member

SANI BABU

VS.

**UNION OF INDIA & ORS.
(S.E. RAILWAY)**

For the applicant : Mr. A. Chakraborty, counsel

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

O R D E R

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "(a) Office order dated 23.09.2010 issued by Assistant Welfare Officer cannot be tenable in the eye of law and as such the same may be quashed.
- (b) An order do issue directing the respondent to grant an appointment on compassionate ground in favour of the applicant;
- (c) And to pass any other order or orders, direction or directions as your Lordships think proper.

2. Brief facts of the case according to the applicant are as under:-

The mother of the applicant while working under the respondents was declared medically unfit vide Office Order dated 10/15.09.2004(Annexure A-I). She subsequently died on 18.01.2008. However, after being declared unfit, she had submitted an application on 06.04.2005 praying for

compassionate appointment in favour of her son i.e the applicant, Sri Sani Babu. In pursuance to that the applicant was advised to submit the required documents in support of his age, educational qualification etc. alongwith the prescribed application vide an order dated 20.10.2005(Annexure A-2). Thereafter, the applicant submitted the relevant documents to the authorities. However, he was again asked to submit the required documents duly countersigned by the Controlling Officer vide letter dated 20.12.2008(Annexure A-3). Unfortunately the claim of the applicant was rejected by the Competent Authority on the ground of impersonation vide letter dated 17.09.2009(Annexure A-4). The applicant again made an appeal before the authority concerned and it was again regretted vide office order dated 23.09.2010(Annexure A-5). Thereafter the applicant submitted an Affidavit affirmed by the 1st Class Judicial Magistrate, Midnapore(Annexure A-6) and also requested the authority to reconsider his case ,but they did not consider his case. Being aggrieved, the applicant has filed the instant O.A. seeking the aforesaid reliefs.

3.(a) The respondents have filed their written statement denying the claim of the applicant. As per the respondents, it is a clear case of impersonation. They have stated that Late Jogayamma, the mother of the applicant had submitted Form No.6 dated 27.03.2005 duly countersigned by Assistant Works Manager(Wagon), wherein no family member was included which clearly shows that her only daughter "Laxmi" was married at that material time whereas the applicant submitted an Affidavit affirmed before the Judicial Magistrate, 1st Class, Midnapore stating that 'Laxmi' is the unmarried daughter of the ex-employee.

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(b) The respondents have further stated that Smt. Jogayamma was medically invalidated on 23.04.2004 and subsequently expired on 18.01.2008. As per the Medical Card issued to her on 21.11.1998, the family composition of the ex-employee was as follows:-

<u>Sl. No.</u>	<u>Name</u>	<u>Date of Birth</u>	<u>Relationship</u>
1.	Jogayamma	01.01.1946	Self
2.	Ku. Lakshmi.	12.07.1971	Daughter

The applicant's name was not recorded in the above Medical Card. However, an application for compassionate appointment in favour of Sani Babu was submitted by the ex employee alongwith some documents including the photocopy of a Transfer Certificate dated 03.04.2002 issued by the Headmaster of Saraswati Junior High School, wherein it has been stated that the applicant had left the school in December, 1986 after passing Class-VIII. According to the respondents, the case file containing the said application and the enquiry report were not traceable and this fact was intimated to the applicant vide letter dated 20.12.2008 and in response to his representation dated 10.12.2008 he was asked to submit the documents again. Accordingly the applicant submitted the relevant documents and the same was forwarded by the Assistant Works Manager (Wagon)/POH vide letter dated 19.03.2009. After receipt of the said letter, a fresh enquiry was conducted and the S&WI was advised to give certain information vide letter dated 09.06.2009 issued by the Workshop Personnel Officer. The concerned S&WI though his submission dated 11.06.2009 intimated that this was a case of impersonation. He further intimated that :-

"The candidate's father was expired and the applicant's elder brother has got EA in Elect. Department/KGP(W/s) on compassionate grounds. Sani Babu's mother is alive and drawing pension also."

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(c) However, as a part of fresh enquiry, letters dated 08.07.2009 and 02.07.2009 were sent to Smt. Jas Beer Kaur Ex-Ward Commissioner of Ward No.23, Kharagpur and to Sri Murari Mohan Ghosh, Ex.Commissioner, Ward No.21, Kharagpur Municipality, Paschim Medinipur in which area the present applicant resides and the ex-employee resided in her lifetime. In response to the letter dated 08.07.2009, Smt. Jas Beer Kaur, Ex. Ward Commissioner of Ward No.23, Kharagpur vide letter dated 20.07.2009 informed that the photograph of the person who was claiming himself as Sri Sani Babu was not genuine as per her knowledge. She further stated that the original name of the person shown in the photograph was Kumar Dewangan and his nick name was Kallu, son of Late Ramjanam Dewangan. Similarly in response to the letter dated 02.07.2009, Sri Murari Mohan Ghosh, Ex.Commissioner, Ward No.21, Kharagpur Municipality informed that the ex employee had three dependents who were (1) Babu Rao (son) (2) Sani Babu (son) (3) Laxmi (Daughter) and after thorough enquiry it was learnt that Babu Rao and Sani Babu died in the recent past and only Laxmi (daughter) was surviving with her two children.

(d) The respondents submitted that after completion of enquiry and taking into consideration the comments of the local civil authorities as well as the documents, the concerned S&WI submitted his report on 06.09.2009 and on going through the said Enquiry Report, the competent authority came to the conclusion that the prayer for employment assistance deserves no consideration and this was communicated to the applicant

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vide letter dated 17.09.2009. The applicant again preferred an appeal on 1506.2010 which was rejected vide letter dated 23.09.2010.

4. No rejoinder has been filed refuting the written statement of the respondents.

6. Heard ld. counsel for both sides and perused the materials placed on record.

7. It is noted that the applicant has claimed to be Sani Babu, the son of the ex employee, Jogayamma. The respondents conducted thorough enquiry in the matter and came to the conclusion that said Sani Babu had died and there was no question of granting compassionate appointment to a person whose identity was not genuine. As per the respondents, the O.A. should be rejected on the ground that it is a clear case of impersonation. The applicant could not produce any document to show that his case is genuine. The respondents have stated that the ex employee was declared medically unfit on 23.04.2004 and had she been in service, her date of superannuation would have been 31.12.2005, which is just after one year 8 months of her medical invalidation. Therefore, she had only one year and 8 months' service at the time of medical invalidation. The respondents have also stated that this O.A. is barred by limitation as the employee died long back in 2008, the prayer for compassionate appointment was finally rejected in the year 2009-10 and this O.A. was filed in the year 2013.

8. As per the law laid down by the Hon'ble Supreme Court, compassionate appointment is not a matter of right as the main purpose of giving compassionate appointment is to enable the family of the deceased to get rid of the sudden financial crisis caused due to untimely death of the bread earner.

9. It is noted that the claim of the applicant for appointment on compassionate ground was regretted on the ground of impersonation vide order dated 17.09.2009 followed by order dated 23.09.2010 but the instant application has been filed in the year 2013 i.e. after three years, that too without any application for condonation of delay. Therefore, the O.A is barred by limitation. Moreover, the respondents have rejected the claim of the applicant on the ground of impersonation with specific reasons which has also not been denied by way of filing rejoinder.

10. In view of the above, I do not find any reason to interfere with the decision of the respondents. The O.A. is accordingly dismissed. No cost.

(URMITA DATTA SEN)
Judicial Member

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