

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/1460/2016

Date of order : 23.3.2017



Present: Hon'ble Mr.A.K.Patnaik, Judicial Member

1. BIVA RANI MITRA

W/o Late Nirmal Kanti Mitra,
Aged about 64 years,
Died in harness before retirement
On 8.9.04 while he was working
in the post of Examiner under
the General Manager,
Gun & Shell Factory,
Cossipore, under
Ministry of Defence,
Govt. of India,
R/o Shama Prasad Pally,
P.O. Purba Putiary,
P.S. Regent Park,
Kolkata - 700093.

2. BIVAS MITRA,

S/o Late Nirmal Kanti Mitra,
Aged about 36 years,
R/o Shama Prasad Pally,
P.O. Purba Putiary,
P.S. Regent Park,
Kolkata - 700093.

...APPLICANT

VERSUS

1. Union of India, through
The Secretary,
Ministry of Defence
(Defence Production),
Government of India,
South Block,
New Delhi - 110001.

2. The Chairman,
Ordnance Factory Board,
Having his office at
10A Shaheed Khudiram Bose Road,
Kolkata - 700001.

3. The General Manager,
Gun & Shell Factory,
Cossipore,
Government of India,
Ministry of Defence,
Kolkata - 700002.

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4. The Deputy General Manager,
(Administration),
Gun & Shell Factory,
Cossipore,
Government of India,
Ministry of Defence,
Kolkata - 700002.
5. The Senior General Manager,
Gun & Shell Factory,
Cossipore,
Government of India,
Ministry of Defence,
Kolkata - 700002.

...RESPONDENTS.

For the applicant : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents: None

O R D E R

Mr.A.K.Patnaik, J.M.

Heard Mr.P.C.Das, Id. Counsel along with Ms.T.Maity, Id. Counsel appearing for the applicant. None appeared for the respondents.

2. This OA has been filed under Section 19 of the A.T.Act, 1985, seeking the following reliefs :

- a) To quash and/or set aside the impugned office order dated 30.5.2015 and 19.8.2015 issued by the General Manager, Gun & Shell Factory, Cossipore by relying upon the terminal benefit rejected the claim of the applicants for grant of compassionate appointment in favour of the applicant No.2 which has been set aside by the Hon'ble High Court at Kolkata in the catena of decisions being Annexure A/6 of this original application as well as by the Hon'ble Supreme Court in the case of Canara Bank -vs- A.Mahesh Kumar [2015 (7) SCC 412];
- b) To pass an appropriate order directing upon the respondents authority to consider the case of the applicant No.2 for grant of compassionate appointment in view of the decision passed by the Hon'ble High Court at Calcutta dated 17th September, 2010 in the case of Sujit Kumar Datta -vs- United Commercial Bank [2011 (4) CHN (CAL) page 29] and in the case of Rajendralal Biswas -vs- State of West Bengal dated 1st July, 2011 [2011 (4) CHN (CAL) page 38] and to grant appointment in favour of the applicant No.2 against any suitable Group C post to save the acute financial hardship of the family of the deceased employee;
- c) To quash and/or set aside the impugned DOP&T's office memorandum dated 9.10.1998 and 26.7.2012 and Defence's circular dated 9.10.1998;

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d) Leave be granted to move one single application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have got a common grievances and both of them are similarly circumstanced persons;

3. Ld. Counsel for the applicant Mr.Das submitted that the husband of the applicant No.1 was working in the post of Examiner in the Gun & Shell Factory, Cossipore. Unfortunately he died on 8.9.2004 while in service. After the death of her husband, the applicants furnished the details in respect of the family members regarding grant of compassionate appointment in favour of applicant No.2. The claim was rejected for the first time on 19.12.2008. The applicants made second representation on 25.10.2013 but the respondent authorities did not take any decision for reconsidering the case of the present applicants. Mr.Das also submitted that the applicants have submitted the latest representation on 20.1.2016 being Annexure A/18 to the OA, addressed to the respondent No.3 and the same is still pending consideration. He also submitted that in the meantime law is well settled that terminal benefits is not to be taken into consideration while granting compassionate appointment to a legal heir of the deceased government employee.

4. Therefore without keeping the matter pending as the sole bread earner of the family has expired, I dispose of the OA without waiting for the reply and without entering into the merit, by directing the respondent No.3 that if such representation dated 20.1.2016 is preferred and the same is still pending, the same shall be considered as per rules in force and keeping in mind the judgments passed by Hon'ble Supreme Court of India and other Courts/Tribunals, by passing a well reasoned order and communicate the same within two months from the date of receipt of the copy of this order. Though I have not expressed any opinion on merit, I direct the respondent No.3 that if the grievance of applicant No.2 is found to be genuine, then expeditious steps may be taken to grant him the benefit of compassionate appointment within a further period of 3 months from the date of such consideration.

5. With the aforesaid observation and direction the OA is disposed of.

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6. As prayed for by Mr.Das, a copy of this order along with the paper book of this OA be transmitted to respondent No.3 by Speed Post for which he undertakes to deposit the cost with the Registry within 5.4.2017.


(A.K.PATNAIK)
MEMBER (J)

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