



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.No.350/01638/2014
M.A.350/00423/2014
M.A.350/00374/2014

Date of order : 19.8.2016

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

SHIPRA MAITRA

VS.

UNION OF INDIA & OTHERS
(M/O Telecommunications, BSNL)

For the applicant : Mr. N. Roy, counsel

For the respondents : Mr. M.K. Ghara, counsel

ORDER

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

- a) To issue direction upon the respondents to provide the compassionate appointment to the applicant forthwith because the applicant is the legally married wife of the deceased and there is no other claimant for the appointment;
- b) To issue direction upon the respondents to provide employment to the applicant with retrospective effect;
- c) Any other order or orders and/or direction or directions as to this Hon'ble Tribunal may deem fit and proper;
- d) Any other relief and/or reliefs to the applicant may be found to entitled to."

The applicant has also filed an M.A.No.350/00423/2014 for condonation of delay in filing the O.A.

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2. The respondent authorities have filed an M.A.No.350/00374/2016 for deletion of name of the Respondent No.1.

3. The admitted facts of the case are as follows:-

(a) Late Biplab Moitra(deceased official), Ex-Wireman expired on 17.12.1983. As per the respondents, the deceased employee married twice. The death benefits were granted to Smt. Gopa Moitra, first wife after obtaining Succession Certificate from her and on the basis of affidavit sworn by her mother-in-law. However, the applicant, Smt. Shipra Moitra also preferred a claim for death benefits of the ex employee claiming to be his wife, but could not produce any Succession Certificate in support of her claim. Therefore, her claim was rejected.

(b) The applicant, Shipra Moita has filed a Title Suit No.618/1986 before the Learned Munsef of 3rd Court, Sealdah claiming the financial benefits and compassionate appointment. However, the Title Suit was dismissed on 14.07.1990. Being aggrieved, she preferred a Title Appeal No.145/1990 before the Assistant District Judge, Sealdah. The learned Assistant District Judge, Sealdah vide his order dated 25.04.1992 quashed the order dated 14.07.1990 along with a direction to the department to extend the death benefits to the applicant.

(c) Thereafter, the department preferred the second appeal before the Hon'ble High Court, Kolkata being SAT No.2615/1992. The Hon'ble High Court in their interim order dated 17.12.1993 directed the department to provide provisional pension to the applicant from January 1994 till disposal of the 2nd Appeal. Subsequently the 2nd appeal was allowed on 30.03.1998 by quashing the order of the Assistant District Judge, Sealdah dated 25.04.1992. The applicant, Smt. Shipra Moitra preferred a Review Petition

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being No. 2895/1998, which was dismissed on 19.01.2001 with liberty to the applicant to approach before the authority for compassionate appointment.

In pursuance of the direction of the Hon'ble High Court, the applicant's case was considered and rejected by the respondent authorities vide order dated 19.08.2004. Being aggrieved the applicant has filed the instant application seeking the aforesaid reliefs.

4. According to the applicant, she got married with Biplab Moitra on 31.01.1983 and she is the only legally married wife of late Biplab Moitra. In the application for condonation of delay being M.A.No.350/00423/2014, she has stated that she made representations before the authorities but nothing has been done. Ultimately she has filed the instant application in the year 2014.

5. As per the respondents, since the applicant's claim for declaration as legally married wife was rejected upto the Hon'ble High Court, her ^{case} could not be considered by the authorities. On the other hand, Smt. Gopa Moitra has produced Succession Certificate in support of her claim that she is the first wife of the deceased employee and on the basis of the same, she was paid all the retiral benefits of the deceased employee. The respondents have submitted that the order rejecting the claim of the applicant was passed in the year 2004, whereas the instant application has been filed in 2014 i.e. 10 years after passing of the impugned order. The respondents also submitted that the grounds taken in the application for condonation of delay are not sufficient because filing of repeated representations by the applicant cannot keep the cause of action alive.

6. I have heard the Id. counsel for both sides and perused the materials placed on record.

7. Admittedly the applicant filed a Title Suit No. 618/1986 before the learned Civil Court, which was dismissed on 14.07.1990. The applicant preferred an appeal against the same and ultimately the Hon'ble High Court vide order dated 25.04.1992 had upheld that order dated 14.07.1990. On the other hand, Smt. Gopa Mitra had produced Succession Certificate in support of her claim of being the first wife of the deceased employee. Therefore, the respondents had disbursed the retiral benefits to her. In the instant case, the applicant was not being recognized as the wife of the deceased employee, therefore, her claim for compassionate appointment was rightly rejected by the respondent authorities.

8. It is noted that the claim of the applicant was rejected by the respondents finally in the year 2004 and the applicant has filed this O.A. only in the year 2014 i.e. 10 years after passing of the order of rejection. The grounds stated in the application for condonation of delay are also not convincing because repeated representations cannot keep the limitation alive. So, the application is hopelessly barred by limitation. Moreover, the applicant has no case on merit also. Therefore, question of condonation of delay does not arise at all.

9. In view of the above, the application for condonation of delay i.e. M.A.350/00423/2014 and the O.A. both are rejected. Consequently, the M.A.350/00374/2016 stands disposed of.

10. There shall be no order as to cost.

(Urmita Datta Sen)
Judicial Member