

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA



O.A. NO. 350/00005/2017

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

1. Sабita Dey,
Wife of Late Narayan Chandra Dey,
Aged about 58 years,
(Ex-Helper, under SSE/WORKS/PAW)
Residing at Village – Hatzen Bazar Colony,
P.O. – Hatzen Bazar, P.S. Suiri,
Dist – Birbhum, Pin – 731 102,
West Bengal.
2. Santosh Dey,
Son of Late Narayan Chandra Dey,
(Ex-Helper, under SSE/WORKS/PAW)
Aged about 27 years,
Residing at Village – Hatzen Bazar Colony,
P.O. – Hatzen Bazar, P.S. – Suiri,
Dist – Birbhum, Pin – 731 102,
West Bengal.

..... Applicants.

-Versus-

1. Union of India,
Service through the General Manager,
Eastern Railway,
Having its Office at 17, Netaji Subhas Road,
Fairlie Place,
Kolkata – 700 001.
2. The Divisional Railway Manager,
Asansol Division, Asansol,
Eastern Railway,
Pin – 713 301.
3. The Sr. Divisional Personnel Officer,
Eastern Railway, Asansol,
Dist – Burdwan, Pin – 713 301,
West Bengal.

..... Respondents.

For the applicant : Mr. B. Chatterjee, Counsel

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

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Order dated: 29.06.2018

ORDER

Per Bidisha Banerjee, Judicial Member

This application 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 consent of both sides.

2. The applicant has sought for the following reliefs:

"8.(a) An order do issue directing the respondents authority to consider the claim of your applicants in respect of grant of compassionate appointment in favour of the applicant No. 2 in any post within a very reasonable time;
(b) Any other appropriate relief or reliefs as your Lordships may deem fit and proper.
(c) Leave may be granted to file This Join Petition under rule 4(5)(a) of CAT (Procedure) Rule 1987."

3. The admitted facts that emerge from the pleadings of the parties are as under:

"Late Narayan Ch. Dey, Ex Khalasi under Senior Section Engineer/Works/Panagarh expired 11.09.2011. Smt. Sabita Dey, wife of Late Narayan Ch. Dey, Ex-Khalasi herein applicant and her elder son Sri Manotosh Dey had made applications on 20.12.2011 for consideration of appointment in favour of Sri Manotosh Dey on compassionate ground in group D category. In support of her above named son's educational qualification, they had submitted photocopy of Class VIII pass certificate issued by The Headmaster of Kendua Rakshakali Vidyamandir, P.O : Suri, Dist : Birbhum issued on 10.05.2000. The case was remitted for enquiry by deputing a Welfare Inspector of this organisation. During enquiry, Headmaster of Kendua Rakshakali Vidyamandir, P.O : Suri, Dist. : Birbhum vide his letter dated 07.2.2012 intimated that the transfer certificate of Class VIII pass which was submitted by Sri Manotosh Dey was not issued from his school and also the name of Sri Manotosh Dey was not found in his school admission register. Hence aforesaid educational qualification certificate could not be taken into consideration as valid school certificate for appointment on compassionate ground and the request for appointment on compassionate ground was regretted by the competent

authority which was intimated to Sri Manotosh Dey, eldest son of deceased employee vide office letter No.DSC/4/Comp/06/2012/Trainee dated 29.02.2012.

Thereafter, Smt. Sabita Dey preferred a mercy appeal in June/2015 in favour of her second son Sri Santosh Dey but it was not considered as per instructions contained in CPO/ER's letter No. CPO/SC/SA/Pol/Pt.X(Corrsp) dated 27.03.2009 which says, if once a fake certificate is submitted no further chance will be given as this will, encourages the spirit of taking chances submitting fake certificates and escaping with it, if luck be."

4. According to the respondents "it is settled law that appointment on compassionate ground is not a matter of right rather it flows from the scheme formulated by the institutions as per terms and conditions" and "appointment on compassionate ground is given to the eligible wards of ex employee subject to fulfilment of required criteria such as possession of valid minimum required educational qualification, establishment of identity of the candidate etc." "In the instant case the applicant No. 1 had submitted one fake Educational certificate in order to get employment in the railway" and "A person who seeks job based on a forged document is not entitled to get any job in the government on compassionate ground. By submission of a false certificate seeking a job there on reveals the malafide intention of an individual. Submission of fake school certificate reflects that the applicant has not come with clean hands and he was seeking job on the basis of forged and fake documents, which is indicative of his malafide intention and also casts doubt on the integrity".

5. Applicant has placed reliance on a decision of this Tribunal in O.A. 1200 of 2013 which has been issued on the basis of a judgment of Hon'ble High Court in WPCT 249 of 2013. He has claimed parity being identically circumstanced i.e. identically deprived on the proved that the elder sibling produced a fake certificate.

6. In WPCT 249/ 2013 Hon'ble High Court had held as under:

“ The claim of the petitioner No. 2 for employment on compassionate ground was rejected by the Railway authorities as his elder brother had submitted fake and false certificates in the past in support of his educational qualification and date of birth.

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Considering the conduct of the elder brother of the petitioner No. 2 respondent authorities may refuse to grant any employment to the elder brother but the other member of the family of the deceased employee namely, the petitioner No. 2 herein cannot be penalized on the ground that his elder brother submitted invalid and improper documents in support of his claim for employment.

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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.

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The respondent authorities, particularly the respondent Nos. 4 and 5 herein, are directed to take immediate appropriate decision with regard to the claim for reemployment 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.”**

7. In regard to consequent speaking order it is noticed that in O.A. order records thus:

“ It is abundantly clear from the above order of the Senior Divisional Personnel Officer (Annexure A-5) that the present applicant No.2 Sri Tapan Bauri has been penalised because of submission of fake certificate by his elder brother Sri Bhuban Bauri. It also appears from the impugned order passed by Divisional Personnel Officer, South Eastern Railway, Adra on 19.08.2013 in response to Hon'ble High Court's order that same reasons have been mentioned for rejecting the case of compassionate appointment in favour of Tapan Bauri.

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Hence, it is ordered that the impugned order of the respondent authorities dated 19.08.2013 is quashed and set aside for the ends of justice."

8. In the aforesaid backdrop O.A. is disposed of with a direction upon the respondents to consider the case of present applicant in the light of the decisions supra and pass appropriate order by 3 months. No costs.


(Bidisha Banerjee)
Member (J)

DRH