

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, CALCUTTA



NO. O.A. 350/01732/2015

Order dated: 25.01.2016

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. P.K. Basu, Administrative Member

SABITA DAS & ANR.

VS.

UNION OF INDIA & ORS. (Posts)

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : Mr. M.K. Ghara, Counsel

ORDER

Per Ms. Bidisha Banerjee, JM:

Heard Ld. Counsel for both the parties.

2. The order under challenge in that O.A. is an order dated 20.07.2015 issued by ADPS (Recruitment) whereby and whereunder the said respondent intimated to the applicant as follows:

"However her case will again be placed before the next Circle Relaxation Committee meeting for reconsideration in MTS cadre against the earmarked vacancies for the year 2013.

This is issued with the approval of Ch. PMG."

3. The grievance of the applicant in a nutshell is that he ought not to have been judged on the basis of a scheme which was prevailing at the time of death and not in terms of a later scheme, introduced long after the death of the employee.

4. Ld. Counsel for the applicant, to substantiate his contention would place reliance upon a recent decision of the Hon'ble Apex Court in **Canara Bank & Anr. vs. M. Mahesh Kumar, AIR 2015 SCC and 2411** and would argue that the applicant deserved consideration in terms of the scheme operating in the field as on the date of death of the employee.

The relevant extracts of the cited decision would be as under:

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"16. In *Balbir Kaur & Anr. v. Steel Authority of India Ltd. & Ors.*, (2000) 6 SCC 493 : (AIR 2000 SC 1596), while dealing with the application made by the widow for employment on compassionate ground applicable to the Steel Authority of India, contention raised was that since she is entitled to get the benefit under Family Benefit Scheme assuring monthly payment to the family of the deceased employee, the request for compassionate appointment cannot be acceded to.

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Referring to Steel Authority of India Ltd.'s case, High Court has rightly held that the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. The High Court also observed that it is not the case of the bank that the respondents' family is having any other income to negate their claim for appointment on compassionate ground.

17. Considering the scope of the Scheme 'Dying in Harness Scheme 1993' then in force and the facts and circumstances of the case, the High Court rightly directed the appellant-bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in existence. We do not find any reason warranting interference.

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19. In the result, all the appeals preferred by the appellant-bank are dismissed and the appellant bank is directed to consider the case of the respondents for compassionate appointment as per the Scheme which was in vogue at the time of death of the concerned employee. In the facts and circumstances of the case, we make no order as to costs."

5. The Ld. Counsel for the respondent would submit that the case shall be considered by the next CRC.

6. We heard the Ld. Counsels and perused the materials on record.

7. In the backdrop of the cited decision, the following are noted:

(i) The employee died in harness as 14.07.2000.

(ii) The impugned order does not specify why the case could not be considered between the years 2000-2009.

(iii) Nevertheless the prayer was considered thrice and the case has been assured of another consideration, therefore the family is still considered as deserving an employment assistance.

(iv) It was considered in terms of a scheme of 2012 introduced long after the death of the employee.

8. Indubitably and irrefutably the true import of the decision cited would be that the cause of action in a compassionate appointment case arises with the death of the employee and would therefore be governed by the scheme operating as on the date of death.

9. The scheme of 2012 was not in force when the death took place and in terms of the cited decision such a scheme would not have any retrospective effect.

Therefore the matter deserves to be re-considered on that score.

10. Furthermore it is obvious and axiomatic that a decision of Hon'ble Apex Court is binding <sup>on</sup> all Courts & Tribunals & there is no quarrel about it. Judgments of Apex Court are declaratory for the nation [(1980) 1 SCC 233] and in a judicial system governed by precedents the Judgments delivered by the Hon'ble Apex Court must be respected and relied upon with meticulous care and sincerity.

11. Therefore, the O.A. is disposed of with a direction upon the respondents to re-consider the matter in terms of the decision supra.

12. Let appropriate reasoned & speaking order be issued within three months.

13. O.A. is accordingly disposed of. No order as to costs.

(P. K. BASU)

(Bidisha Banerjee)  
JM

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