

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/01892/2015

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

RITA BARMAN

VS

UNION OF INDIA & ORS.

For the applicant : Mr.S.Roy, counsel

For the respondents : Mr.K.K.Dasgupta, counsel
Mr.A.R.Nandy, counsel

Order on : 8.8.16

O R D E RMs.Bidisha Banerjee, J.M.

The Id. Counsels for the parties were heard and materials on record were perused.

2. This application is filed by the applicant seeking the following reliefs :

- a) To direct the respondents to consider the claim of the applicant in regard to compassionate appointment permanently in died-in-harness category forthwith;
- b) To set aside the order dated 29.8.14 along with the order dated 5.8.08 passed by the respondent authorities;

3. The facts that could be culled out from the pleadings are as under :

Subal Barman, the husband of the applicant while working under the respondents, went missing on and from July 1993. The applicant filed a suit T.S.259/04 before the Learned 3rd Civil Judge (Junior Division) at Sealdah praying for a decree of declaration that her husband be presumed to be dead since 31.7.2000. The said suit was heard and the Learned Court was pleased to pass the judgment and decree on 10.4.07. She had prayed for employment assistance on compassionate ground, instead she was engaged as daily rated casual employee since May 2001 on a pay of Rs.121.81/- per day and her

On 7.8.07 the applicant preferred a representation before the respondent No.3 praying for compassionate appointment permanently in place of her deceased husband. Thereafter the applicant made several representations dated 12.8.10, 19.2.11 and 25.4.11 before the respondent authorities. She even sent a demand of justice through her advocate on 5.4.12. Again on 28.4.14 the applicant demanded for compassionate appointment through her advocate. Thereafter she filed RTI application on 7.8.14 which was replied to by respondent No.3 on 12.9.14. On her representation dated 8.8.14 preferred to respondent No.2 she was apprised that it was not possible to grant compassionate appointment. The applicant made an RTI application on 9.10.14 and in reply to the same the respondents on 12.11.14 admitted that before 2002, appointment on compassionate ground have been offered to three persons.

The applicant's advocate by an application dated 24.11.14 sought for a copy of the Recruitment Rules regarding compassionate appointment before the respondent No.5. The authority remained silent over the issue. The advocate of the applicant then brought the issue to the notice of the Information Commissioner, State Public Information Commission on 15.2.15 which was forwarded to the Central Information Commissioner and is pending till date.

4. The applicant is aggrieved as she has been denied compassionate appointment without any basis, rhyme or reason whereas identically circumstanced persons have been granted such appointment way back in 2002. Therefore she has sought for quashing of the order dated 29.8.14 along with the order dated 5.8.08 whereby and whereunder she was informed that compassionate appointment could not be offered to her.

5. Ld. Counsel for the respondents during the course of hearing submitted that Group 'D' posts under the respondent authorities have been abolished pursuant to 6th CPC recommendation and therefore she could not be offered any Group 'D' post on compassionate ground. Ld. Counsel however, admitted that the organisation is providing appointment on compassionate ground to the

family members of deceased employees who served in Group 'C' posts against Group 'C' posts subject to fulfilment of educational qualification for appointment against such posts.

6. At this juncture ld. Counsel for the applicant submitted that the son of the deceased is duly qualified and has acquired six months' course from the respondents' company in Advance CNC Machinery, in CNC turning, CNC milling, Auto CAD and Master CAM and could be considered for a permanent job under the respondents. The applicant has pleaded that her son completed one year Machinist Court at MSME Bhubaneswar but was not provided with the certificate on his failure to pay the Course Fees of Rs.30,000/- ld. Counsel for the applicant further submitted that the family is not earning any family pension.

7. In the rejoinder the applicants have expressed their gratitude to the respondents for offering a casual job to the applicant @ Rs.353/- per day and there is no apprehension expressed that she would be losing her job.

8. We have given our anxious consideration to the materials on record. In as much as Group 'D' posts have been abolished in the organisation post 2006 scenario, no specific direction could also be issued to the respondents to consider the applicant No.1 or her son for suitable appointment against Group 'D' posts.

9. However, it seems that the respondents had made an honest endeavour to accommodate the applicant against a casual vacancy to enable her to eke out a livelihood and she is engaged since 2001. If the applicant felt neglected or deprived in 2002 when others were being granted compassionate appointments in 2002 while she was left out, she ought to have staked her claim at the material time, she is therefore guilty of latches and would deserve no relief on that score at this distant date. Nevertheless, as it seems that the son of the applicant has already cleared necessary training and has completed six months' course under the respondents, we direct that he may be considered for

suitable appointment in accordance with law as and when any such suitable vacancy is available for his consideration and if he is otherwise eligible.

10. Accordingly the OA stands disposed of. No order is passed as to costs.

(P.K.PRADHAN)
MEMBER (A)

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(BIDISHA BANERJEE)
MEMBER (J)

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