

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/1903/2015

Date of order : 13.2.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member

BINDESWAR PASWAN

S/o Late Gumi Devi
(Ex Consy Safaiwalla, STN. H.Q.
Sevoke Road, Salugara,
West Bengal)
Aged about 36 years, unemployed,
R/o Vill – Betgara, PO – Salugara
Dist. – Jalpaiguri,
West Bengal,
Pin – 734008.

...APPLICANT

VERSUS

1. Union of India, service through
The Secretary
Ministry of Defence,
South Block,
New Delhi – 110001.
2. Additional Director,
Gen. of Staff Duties,
GS/SD-7 (Adm.Civ)
Integrated HQ of MOD (Army)
DHQ PO,
New Delhi – 110011.
3. Administrative Officer,
HQ Eastern Command (GS/SD)
Fort William
Kolkata – 700024.
4. Principal, CDA (Pension)
Allahabad.
5. Station Mukhyalaya,
Ad hoc Stn HQ,
Sevoke Road,
Jalpaiguri,
Pin – 734008.

...RESPONDENTS.

For the applicant : None

For the respondents: Mr.R.Banik, counsel

O R D E R (ORAL)

Per Ms. Manjula Das, Judicial Member

Neither the applicant nor ld. Counsel for the applicant is present. Mr.R.Banik, ld. Counsel appeared for the respondents.

2 On perusal of the records it appears that on 16.1.2017 none appeared for the applicant as well as the respondents, on 28.2.2017 none appeared for the applicant as well as the respondents, on 18.4.2017, 18.5.2017 and 6.7.2017 also none appeared from either side. While the matter was taken up on 1.8.2017 it was submitted from the Bar that Mr.T.K.Biswas, ld. Counsel, whose name is shown in the cause list, is not involved in this case. That day also none appeared for the respondents.

3. On 22.12.2017 none appeared for the applicant. Mr.R.Banik, ld. Counsel appeared for the respondents. On that date when the matter was taken up this Court observed as hereunder :

“From the record it does not appear that the applicant has been duly intimated regarding the retirement of Mr.T.K.Biswas, ld. Counsel from this case. As such for fair justice the applicant should be intimated with the notice to pursue the matter.”

Accordingly in compliance with the order the Registry vide communication dated 3.1.2018 sent a letter to the applicant in his proper address along with the copy of the order passed by this Tribunal by Speed Post. Today is 13.2.2018. Already one month has elapsed and I am of the view that notice is deemed to be served. Despite notice neither the applicant nor his representative is present.

4. One condonation petition being MA 506/2015 arising out of OA 1903/2015 has been filed by the applicant with a prayer for condonation of delay of 5 years 9 months beyond the statutory period of limitation where the respondents filed their objection vide reply dated 1.8.2016.

5. The matter involves payment of the arrear salary and allowances payable to the mother of the applicant since deceased from 19.8.2000 to 26.4.2003, who was forced to retired from service due to medical disability and for appointment on compassionate ground to the son of the deceased.

6. From the case records it reveals that not a single day the applicant or his representative was present before this Tribunal. Already there is a delay of about 5 years 9 months in filing the present OA. No sufficient ground has been set out in the condonation petition also for condoning the delay in filing the present OA. The scheme for compassionate appointment is to help the family of the deceased employee to tide over the sudden crisis which occurred due to untimely death of the breadwinner, which in the present case, by now is over as assumed from the fact that no one represented the case on behalf of the applicant. The applicant seems to have slept over the matter for long.

7. In ***Umesh Kr. Nagpal -vs- State of Haryana [(1994) 4 SCC 138]*** it has been held by the Hon'ble Apex Court as hereunder (with supplied emphasis) :

“The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency.”

The Hon'ble Court also held,

“Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

The Hon'ble Apex Court in the case of ***Eastern Coalfields Ltd. -vs- Anil Badyakar [2009 (3) SLJ 205]*** has held that compassionate appointment is not a vested right which can be exercised at any time in future.

In the case of ***State of Manipur -vs- Md. Rajaodin [2004 (1) SLJ 247]*** the Hon'ble Apex Court has held that compassionate appointment cannot be claimed or offered after a lapse of time when the crisis is over.

8. In view of the foregoing discussions, I hereby hold that the application is fit to be dismissed and accordingly MA stands dismissed. Consequently OA is dismissed. No order as to costs.

(MANJULA DAS)

JUDICIAL MEMBER

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