



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 176 of 2013

Date of order : 16.2.2016

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

PRAN KRISHNA MAHATO

VS

UNION OF INDIA & ORS.

For the applicant : Ms.K.Bhattacharya, counsel

For the respondents : Mr.B.L.Gangopadhyay, counsel

O R D E R

This matter 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 the consent of both sides.

2. The applicant is aggrieved as his prayer for employment assistance on compassionate ground was rejected by an order dated 8.5.12 by the Divisional Personnel Officer, S.E. Railway. The order under challenge in the present OA is extracted hereunder for clarity :

"In obedience to the order passed by the Hon'ble Tribunal Calcutta bench in MA No. 327 of 2010 & OA No. 1791 of 2010 dated 5.9.2011. I, being the Divisional Personnel Officer, S.E. Railway, Kharagpur and Respondent No.4 to the instant petition having considered your case in the light of the direction of the Hon'ble Court with proper application of mind, and pass the following order :

Consequent upon the death of Late Megnath Mahato, Ex. Keyman under SSE (PW) Kharida, expired on 2.1.05, your mother Smt. Putul Mahato submitted an application for giving employment in favour of your elder brother, Sri Natulal Mahato, the outcome of which is well known to your mother i.e. school TC of Sri Natulal Mahato was found not genuine hence employment assistance to your elder brother was regretted.

Subsequently, your mother submitted another application dated 25.7.08 for granting employment in your favour stating that you have requisite educational qualification duly enclosing transfer certificate No.48 dated 19.5.07 and "No objection certificate" of Natulal Mahato which was also regretted vide letter dated 20.3.09. Being aggrieved you filed this instant OA which was last heard on 29.8.2011 and finally disposed of by the Hon'ble Tribunal vide its order dated 5.9.2011 setting aside the office order dated 20.3.2009 (Annexure A/4 to the OA) as well as directed the respondents to consider your case on merit after due inquiry for testing penury.

As per order of the Hon'ble Tribunal, one Staff & Welfare Inspector was deputed for verification of penury at your residence wherein your mother has stated that she has 10 Bigha cultivated land which is in the name of her late husband and cultivation is being done by her sons which depends on rain god. Besides, she has one deaf and dum unmarried daughter and old aged mother-in-law.

Thereafter, the same Staff & Welfare Inspector, made an inquiry w.r.t. genuineness of the Transfer Certificate submitted as documentary evidence in support of educational qualification from Manikpara High School, Post - Manikpara, Dist - Paschim Medinipur. Subsequently, a departmental Officer also attended the said School to ascertain the genuineness. On enquiry, it is revealed that, you were admitted in the aforesaid school in class VI in the session - 1995-96 and did not pass Class VI for being promoted to class VII. Similarly you have not been promoted from Class VII to Class VIII. Hence, the Headmaster of the school certified that you were a student of Class VI only as per available records in that school.

Further, the Headmaster also stated vide his letter dated 8.2.12 that all his earlier correspondence dealt in this matter may be ignored and his letter dated 8.2.12 to be considered as final one. The Xerox copy of the letter of Headmaster dated 8.2.12 is enclosed.

So, keeping in view of the above, I am of the opinion that since you are not having requisite educational qualification, your case cannot be considered for employment assistance. However, if any of the other family member is having eligibility, your mother can submit representation in his/her favour, which will be considered on merit as well as existing rules in force.

Please acknowledge receipt."

(emphasis supplied)

3. Ld. Counsel for the applicant invited my attention to a circular dated 13.12.11 issued by the CPO, Eastern Railway in view of Railway Board's letter dated 9.12.11 (RBE No.166/11) on minimum educational qualification of an aspirant for employment assistance. It is extracted hereunder :

"The issue of minimum educational qualification of candidates belonging to the categories of compassionate appointment, land loser, accident victims, LARSGESS and substitutes in line with recommendations of the sixth pay commission as accepted by the Government of India has been under consideration for some time.

Accordingly, it has now been decided by the Ministry of Railway (Railway Board) that in exceptional circumstances, wherever grant of appointment is considered to any of those persons in categories mentioned above, not in possession of prescribed educational qualification for the post such persons recruited/engaged as trainees who will be given the regular pay bands and grade pay only on acquiring the minimum educational qualification prescribed under the Recruitment Rules. The emoluments of those trainees, during the period of their training and before they are absorbed in the Government as employee, will be governed by the minimum of the IS pay band without any grade pay. The period spent in the IS pay and by the future recruits will not be counted as service for any purpose as their regular service will start only after they are placed in the pay band PB-I of Rs.5200-20,200/- along with grade pay of Rs.1800/-.

This should be included in the appointment letter being given to the candidate in case such appointments are made."

(emphasis supplied)

The Id. Counsel would argue that even without fulfilling the prescribed educational qualification the daughter would be considered for appointment as a 'trainee' in view of the said circular.

4. It is infact noticed that the said circular would make it imperative for the respondents to consider the claim of the applicant despite non-fulfilment of the prescribed educational qualification, keeping in view the fact that the financial condition of the family is not disputed, even as a trainee. Therefore in my considered opinion when the Railways themselves issued a circular giving such concession to the aspiring candidates seeking employment assistance there was no occasion for rejecting the claim of the applicant on the ground of non-fulfilment of requisite educational qualification.

5. In such view of matter the order dated 18.5.12 issued in regard to directions of this Tribunal in OA 1791/10 is quashed and the matter is remanded back to the appropriate authorities for consideration of the matter with proper application of mind in the light of Board's order dated 9.2.11 and to pass appropriate reasoned and speaking order within two months. Needless to say if noting stands in the way, the applicant would be extended benefits in accordance with the said circular.

6. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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